

SA

ABERDEEN POLICE DEPARTMENT

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RECEIVED
BROWN
STATES ATTORNEY
JUL 18 2011

10002100 013 NTE Examination of magazines

Supplemental Reports

Printed On: Fri, Jul 15, 2011

Description: Examination of magazines		Sequence: 013	Report Date: 07/14/2011
Case Number: 10002100	N C I C: SD0060100	Off Cd: SEX22223	Report Type: Notes
Officer: 268 - Jondahl, Tanner	Approval Process:	Secured: No	
CSI Status: Cleared	Status By: 268 - Jondahl, Tanner	Status Df/Tm: 07/14/2011 14:58	

Notes

Officer: Jondahl
Date: 7-15-11
Offense: Rape, etc.
Offender: Richard Mette

On 7-14-11, at approx 0945 hrs, I examined the magazines seized from the home. The following is a brief description of each magazine:

Tag # 10-4589

Magazine 1 Live Young Girls
February 2002
Contains adult pornography that appears to emphasize younger looking adult females.

Magazine 2 Playboy
October 1998
Contains adult pornography.

Magazine 3 Oriental Women
May 2000
Contains adult pornography involving Asian women.

Tag # 10-4603

Magazine 1 Sensations
Undated
*This is a catalog that markets sex products and videos.
This item was addressed to Duane Larson, Langford, SD.*

Magazine 2 Easyriders
June 1998

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Contains some adult female nudity.

Tag #10-4593

Magazine 1

Cheri

October 1998

Contains adult pornography.

Magazine 2

Gallery Magazine

2003 Album

Contains adult pornography.

Tag # 10-4595

Magazine 1

Heavy Metal

September 2010

An illustrated magazine that contains some sexually explicit pictures.

Tag # 10-4594

Magazine 1

Penthouse

April 2000

Contains adult pornography.

Tag # 10-4596

Magazine 1

Playboy - Girls in Sports

October 2000

Contains adult pornography.

Magazine 2

Playboy - Playmate Review

September 1998

Contains adult pornography.

Magazine 3

Hustler

December 2000

Contains adult pornography.

Magazine 4

FHM (For Him Magazine)

July/August 2000

Contains some adult pornography.

Magazine 5

Playboy's Book of Lingerie

October 1998

Contains adult pornography.

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Magazine 6	Playboy's Cyber Girls July 2002 <i>Contains adult pornography.</i>
Tag # 10-4598	
Magazine 1	Family Heat February 2003 <i>Contains stories of incestuous relationships between parents and children. Contains pornographic images of adults.</i>
Magazine 2	Family Lust July 1998 <i>Contains stories of incestuous relationships between parents and children. Contains pornographic images of adults.</i>
Magazine 3	Direct Video and DVD catalog No date <i>Catalog of numerous pornographic videos. Addressed to Richard Mette.</i>
Magazine 4	Pabo catalog No date <i>Catalog of sex toys and videos.</i>
Magazine 5	Angels of Love calendar 2002 <i>A calendar with nude images of women.</i>
Magazine 6	Personal Letters October 1998 <i>Contains adult pornography.</i>
Magazine 7	Penthouse Variations September 1998 <i>Contains adult pornography.</i>
Magazine 8	flavideo.com catalog Fall/Winter 2003 <i>Catalog of numerous pornographic videos.</i>
Magazine 9	Flirt catalog No date

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*Catalog of sexual clothing for women.
Addressed to Richard Mette.*

Magazine 10 The Best Catalog In The World
No date
*Catalog of miscellaneous items.
Addressed to Richard Mette.*

Magazine 11 Flirt - Swimsuit Special
1997
*Catalog of clothing for women.
Addressed to Richard Mette.*

Magazine 12 Pabo
No date
Sex toy catalog.

Magazine 13 Victoria's Secret Catalog
Holiday 2000
*Sexual clothing for women.
Addressed to Wendy Mette.*

Magazine 14 Pabo catalog
No date
Sex toy catalog.

Magazine 15 Pabo catalog
No date
Sex toy catalog.

Magazine 16 Pabo catalog
No date
Sex toy catalog.

Magazine 17 Pabo catalog
No date
Sex toy catalog.

Tag # 10-4599
Magazine 1 Penthouse Variations
February 2010
Adult pornographic magazine.

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Tag # 10-4592

Magazine 1	VideoMail No date <i>Adult pornographic video catalog.</i>
Magazine 2	Direct Video and DVD No date <i>Adult pornographic video catalog.</i>
Magazine 3	Perfect 10 Summer (no year listed) <i>Adult pornographic magazine.</i>
Magazine 4	Girls of Outlaw Bikers No date <i>Adult pornographic magazine.</i>
Magazine 5	Playboy's Book of Lingerie May/June 1998 <i>Adult pornographic magazine.</i>
Magazine 6	Playboy's Wet & Wild June 1998 <i>Adult pornographic magazine.</i>
Magazine 7	Bud Plant Comic Art catalog No date <i>Contains some sexual drawings.</i>
Magazine 8	Playboy's Nude Playmates May 2001 <i>Adult pornographic magazine.</i>
Magazine 9	Club International July 2001 <i>Adult pornographic magazine.</i>
Magazine 10	Playboy's Girlfriends August 2002 <i>Adult pornographic magazine.</i>

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Magazine 11	Venus - Provocative Reading for You catalog No date <i>Catalog of books of a sexual nature.</i>
Magazine 12	High Society Holiday 1998 <i>Adult pornographic magazine.</i>
Magazine 13	Penthouse September 1998 <i>Adult pornographic magazine.</i>
Magazine 14	Playboy's Playmate Tests November 1998 <i>Adult pornographic magazine.</i>
Magazine 15	Playboy's Classic Centerfolds July 1998 <i>Adult pornographic magazine.</i>
Magazine 16	VideoMail catalog No date <i>Adult pornographic video catalog.</i>
Magazine 17	Family Lust September 1998 <i>Contains stories of incestuous relationships between parents and children. Contains adult pornographic images.</i>
Magazine 18	Gallery July 1998 <i>Adult pornographic magazine.</i>
Magazine 19	Direct Video & DVD catalog No date <i>Adult pornographic video catalog. Addressed to Richard Mette.</i>
Magazine 20	Direct Video & DVD catalog No date <i>Adult pornographic video catalog. Addressed to Richard Mette.</i>

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Magazine 21	Adam & Eve No date <i>Sex toy catalog.</i>
Magazine 22	Hustley - Barely Legal August 2009 <i>Adult pornographic magazine.</i> <i>Information from the women in the magazine claim to be around the age of 19.</i>
Magazine 23	The Best of Forum Letters September 1998 <i>Adult pornographic magazine.</i>
Magazine 24	Live Young Girls December 2006 <i>Adult pornographic magazine.</i> <i>Article titles refer to teens in the pornography industry.</i>
Magazine 25	Playboy's Book of Lingerie January/February 2001 <i>Adult pornographic magazine.</i>
Magazine 26	Playboy's Supermodels May 1995 <i>Adult pornographic magazine.</i>
Magazine 27	Playboy's Natural Beauties October 1998 <i>Adult pornographic magazine.</i>
Magazine 28	Sensations catalog No date <i>Adult pornographic video catalog.</i>
Magazine 29	Playboy's Girls of Summer July 1997 <i>Adult pornographic magazine.</i>
Magazine 30	Club December 1998 <i>Adult pornographic magazine.</i>

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Magazine 31	Playboy's Girlfriends August 2001 <i>Adult pornographic magazine.</i>
Magazine 32	Pabo No date <i>Adult pornographic video catalog.</i>
Magazine 33	Playboy's Wet & Wild November 1996 <i>Adult pornographic magazine.</i>
Magazine 34	Adam & Eve No date <i>Sex toy catalog.</i>
Magazine 35	Rendezous No date <i>Sex toy catalog.</i> <i>Addressed to Richard Mette.</i>

I took photos of the covers of each magazine or catalog. The photos were burned to a CD. (tag # 11-2718)

Summary of Evidence for Case # 10002100
Detective Barb Reifenrath

Evidence # 10004577 – hp computer Item #1

Three adult pornography incest videos titled "Home.alone.with.daddy.wmv", "Model Of Family ~ Taboo I.ncest.avi" and "The.helpfull.dau.wmv"

Ebook How to give any woman orgasms.

Two Barely legal magazine ads and two "1 – 800" teen ads.

15 cartoon pornography videos involving well known cartoon characters such as Beauty and the Beast, Pocahontas, Ariel and King Triton, Jasmine and the Genie, Jasmine and Sultan, Belle and Gaston, Ariel and Eric. One of the videos is titled "Beast brutally raping Belle".

11 videos in a series called "Cool Devices". These videos are animated pornography which also involves assault, rape, and false imprisonment.

Pictures of Mette children in the bathroom. Three of the pictures are of one of the daughters taking a shower. These pictures show mid-chest up of the child washing her hair. The child looks to be about 8 years of age.

Evidence # 10004581 – external hard drive Item 1B

Appeared to be a computer backup of Evidence # 10004577, Item #1.

5 videos of cartoon pornography featuring cartoon characters Ariel and Eric, Belle and the Beast and Belle and Gaston.

File path located in "Deleted Files" – "Item1B.E01/Partition 1/My Book [FAT32]/[root]/Rich_Backup/Memeo/Rich_Backup/C_/Documents and Settings/Rich/Favorites/BACKWOODS mag/SKILLS/.Free Incest Videos – huge archive of the family sex movies and photos.url.dcm".

Evidence # 10004602 – Gateway computer Item 15

Contains same pictures of Mette children in the bathroom in Evidence # 10004577, Item # 1.

Evidence # 10004580 4 GB SanDisk cruze thumb drive – Item 1A

Nothing of evidentiary value was located.

Evidence # 10004609 4 GB SDHC card – Item 21

Nothing of evidentiary value was located.

Evidence # 10004584 – 34 DVD's Item 18 (Two of these DVD's were tagged separately for evidence as Item 18-1 and Item 18-2)

DVD +RW Item 18-1

23 animated and "Hentai" videos of adult pornography which also involves rape, false imprisonment, aggravated assault and homicide.

Three adult pornography videos related to incest. Titles include "incest irmaos adolescents fudendo", "Taboo Kids Play Doctor" and "taboo, step-dad and daughter".

Seven Age Difficult Pornography videos. Titles include "15-9", "adult – Swedish redhead", "Christine Young", "danish teen babysitter", "Porn – lesbian panty kiss.mpg", "School_Girls little tits" and "virgin coed fucked on the couch".

Two videos of Adult Male Gay Pornography.

Ebook – Sex tips From a Woman.

One picture titled "11 horny girls young shaved pussy" with females that appear to be under the age of 18.

One animated picture titled "kale anka xxx" showing cartoon characters such as goofy looking at a "Sextoon XRay".

One video titled "rinoa (1).WMV" which begins with what appears to be video from a hidden camera in a changing room. The video then changes to a regular recording and the female seen at the beginning appears to be raped by two males.

One adult pornography video titled "Sex Education #3".

One adult pornography video titled "My friends hot mom – vargas".

One adult pornography video titled "polish teens rocco private".

One adult pornography video titled "WWW.SEXLIST.CO.IL Cheyenne Silver - The Babysitter".

One adult pornography picture titled "little spread showing tits".

One adult pornography video titled "barely legal teen Orgy video".

DVD +RW Item 18-2

This DVD contained five folders:

Game On
NEW as of 11_20_06
norton antivirus 2003
Old Game Cheats
PDF Ebooks

Under the folder Game On I saw a folder labeled "K-lite".

Under the K-lite folder there is an executable file labeled "kazaa_lite_kpp_243_english.exe". From my training and experience I know kazaa lite to be a version of Kazaa which is a peer-to-peer file sharing program. Under the K-lite folder is another folder labeled "kazaabegone" and contains the kazaabegone executable file. Kazaabegone is a Kazaa uninstaller.

Also under the Game On folder is a folder called "MyMyNeWdOwNIOaDs". The MyMyNeWdOwNIOaDs folder contains executable files for what appear to be games.

One of the files is labeled "(Hentai game pc) Immoral study 2.exe". According to an internet search this game is described as "You play as Professor Hitosuji, who was hired by a businessman to tutor his daughter, who's been slipping in her grades lately, she also has gotten an attitude problem since then. She's supposed to marry a person with a good education, someone who could organize her father's factory. She's in love with a student called Takashi and the professor uses her feelings towards him to have sexual intercourse with her."

Another file under MyMyNeWdOwNIOaDs folder is an executable file labeled "Amy's Fantasies.exe". According to an internet search this game is described as "This is a story about a high-school girl named Emi, who fell in love with her younger step-brother. Finally, on her eighteenth birthday, she decides to tell him about her feelings. But suddenly, debt collectors arrive and confiscate everything your father possessed. Tomomi, Emi's step-brother, disappears. Now Emi must find him, her only true love, and to confess to him her feelings. But n her journey Emi discovers a different personality inside herself. This other person is called Amy, While the true Emi is a shy, modest girl, her Amy part cares mostly about one thing: to make real her wildest sexual fantasies"

Under the NEW as of 11_20_06 folder there is an executable file labeled "Paintshop.Pro.8.Retail.exe". I know from training and experience the Paintshop pro is a photo editing software.

Under the Norton antivirus 2003 folder there is a setup executable file labeled "Setup.exe".

Under the Old Game Cheats folder there is a folder labeled "Me Kaza You Kaza". Under this folder there are shortcut or ".lnk" files. These files include labels "IP Blocker Updater.lnk", "Kazaa Lite K+ +.lnk", and "Uninstall Kazaa Lite K+ +.lnk".

Under the PDF Ebooks folder there are files pertaining to computer information. These files include:
“(ebook – PDF) Linux Complete Command Reference.pdf”
“(ebook) – Programming p Teach Yourself Linux In 24 Hours.pdf”
“Ebook – Hacking – How To Crack Any Software Protection.pdf”
“Hacking Secrets Revealed – ebook.pdf”

There are two other files of interest under PDF Ebooks called “(ebook) Mind Powers (How to Use and Control Your Unlimited Potential).pdf” and “(ebook) Penis Control & Tantra.pdf”

Under PDF Ebooks there is another folder labeled “EEE Books”. Under this folder there are eight folders.

One of these folders is labeled “Hackers”. Under the Hackers folder there is a document file labeled “How to Crack Any Type of CD Protection (1).doc”

Another folder is labeled “HOW TO’S”. Under this folder there are notable files. These are “(eBook) How to Crack CD Protections.pdf”, “(ebook) How to hack Windows XP Admin Passwords.doc”, “(ebook) Mind Powers (How to Use and Control Your Unlimited Potential).pdf”, “BOOK – Sex Tips From a Woman.doc”, “Carnegie, Dale – How to Win Friends and Influence People.rtf”, “Combat ch4 pressure-points.pdf”, “E-book – How To Control Your Brain At Will.pdf”, “Hacking For Dummies.doc”, “Hacking For Newbies.doc”, “How to make a Bleach Bomb.doc”, “How to make a simple smoke bomb.doc”, “How To Make Bombs Book 2.doc”, “howchiisusedin-Dlm_Mak.doc”, “Msn Messenger Hacker 2003.doc”, and “Ted The Tool – MIT Guide to Lock Picking.pdf”.

Another folder is labeled “INFO”. Under this folder there are two executable files for computer knowledge. They are labeled “EBOOK Learn C++ in 21 Days.exe” and “Learn Visual Basic 6.exe” which are both used for computer programming.

Evidence # 10004606 3.5” floppy disks Item # 19

Nothing of evidentiary value was located.

Evidence # 10004604 27 CD’s, Item # 17

Nothing of evidentiary value was located.

Evidence # 10004591 2 CD’s, Item # 7

Nothing of evidentiary value was located.



MENU

SEARCH

Text Search
Map Search
Neighborhood Search

FAQ

ABOUT THE SOR

LAW ENFORCEMENT
CONTACT INFORMATION

USEFUL LINKS

FEEDBACK

PUBLIC NOTIFICATIONS

SEX OFFENDER REGISTRY
STATUTES

SEX OFFENSES STATUTES

TIER STATUTES

PRINTER FRIENDLY

Offender Name: RICHARD PAUL METTE
Alias(es): METTE, RICH
TINY
Gender: MALE
Race: WHITE
Date of Birth: 5/28/1969



Image Date: 5/31/2012

This subject is currently incarcerated.

Physical Description:

Height: 6 FT 9 IN
Hair Color: BLOND

Weight: 310
Eye Color: BLUE

Offender Status:
Crimes Convicted: RAPE-1ST DEGREE (22-22-1) **Custody Status:** Yes

Crime Description: SUBJECT CONVICTED OF 1ST DEGREE RAPE INVOLVING AN 8 YEAR OLD GIRL.

County of Conviction: BROWN **State of Conviction:** SD
Date of Conviction: 5/29/2012 **Date of Commission:** 10/1/2010

Residence: INCARCERATED/PRISON
SIOUX FALLS, SD 57117
MINNEHAHA COUNTY

**Secondary
Residence:** 303 5TH AVE SE
ABERDEEN, SD 57401
BROWN COUNTY

Community Safety Zone Restrictions: SDCL 22-24B-23

Registering Agency: STATE PEN

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EMPLOYMENT EXPERIENCE

Start with your present or last job. Include any job-related military service assignments and volunteer activities. You may exclude organizations which indicate race, color, religion, gender, national origin, handicap or other protected status.

Employer: <u>YMCA</u>	Address: <u>Pickeral Lake</u>
Dates Employed: From: <u>5-2001</u> To: <u>10-2001</u>	Salary: Starting \$ <u>1500^{nth}</u> Ending: \$ <u>Same</u>
Telephone Number (s): <u>486-4400 -</u>	
Job Title: <u>Asst Camp Dir. Maintenance Dir.</u>	Supervisor: <u>Marcy Reagan</u>
Work Performed: <u>Set up of all programs - Roofing, mowing, plumbing, electrical</u>	
Reason for Leaving: <u>End of Season</u>	

Employer: <u>YMCA</u>	Address: <u>Pickeral Lake</u>
Dates Employed: From: <u>5-2000</u> To: <u>10-2000</u>	Salary: Starting \$ <u>1400^{nth}</u> Ending: \$ <u>1400^{nth}</u>
Telephone Number (s): <u>486-4400</u>	
Job Title: <u>Camp Coordinator - Maint. Dir. - Security Dir.</u>	Supervisor: <u>Marcy Reagan -</u>
Work Performed: <u>Coordinated all camp activities - Did all maintenance - Did Security Rounds</u>	
Reason for Leaving: <u>End of Season</u>	

Applicant's Statement

I certify that answers given herein are true and complete to the best of my knowledge.

I authorize investigation of all statements contained in this application for employment as may be necessary, including a credit check, in arriving at an employment decision.

This application for employment shall be considered active for a period of time not to exceed 60 days. Any applicant wishing to be considered for employment beyond this time period should inquire as to whether or not applications are being accepted at that time.

I hereby understand and acknowledge that, unless otherwise defined by applicable law, any employment relationship with this organization is of an "at will" nature, which means that the employee may resign at any time and the employer may discharge the employee at any time with or without cause. It is further understood that this "at will" employment relationship may not be changed by any written document or by conduct unless such change is specifically acknowledged in writing by an authorized executive of this organization.

In the event of employment, I understand that false or misleading information given in my application or interview(s) may result in discharge. I understand, also, that I am required to abide by all rules and regulations of the employer.

Signature

Date

Notes:

52100 '20: ?

Jordan would not give any information regarding the adult movies, which were found. However the subject appeared to raise his anxieties and he became very flush and looked as if he was going to cry.

Jordan was asked what kind of consequences the Mette's have used with him throughout his stay. He stated they have taken things away from him such as his CD player and they have also given him extra chores.

Interview with Kelly: Kelly reports that she did go shopping with Rich and Wendy last week however could not remember the exact day. She stated that they had gone to Ken's, Target, and Econo Food. She did not remember the time they left or when they returned home. Kelly reports that the younger kids were sleeping and older kids were told when to be in bed. Everyone was sleeping when they got home. Kelly stated that upon returning home she tried waking Lewis and Jordan so they could help carry groceries in from the car. However she was not able to get them up so Rich went upstairs to get them. Lewis did come down and help carry bags in.

Kelly was asked how things are going in the home. She stated that Rich and Wendy do not fight with each other as much as they were in the past.

Interview with [REDACTED]: [REDACTED] stated that things were going "fine" with the Mette's. [REDACTED] stated that she was left at home with Lewis, Jordan and the three younger kids. The three younger children were sleeping when the Mette's and Kelly left. She was doing her homework and went to bed at 9:00. Jordan went to bed at the same time she did and Lewis a little after they did.

Interview with Wendy Mette: When the subject of tickling was brought up Wendy made the comment "that would be Rich". She stated that Rich tickles the younger kids a lot and they "love it". However she has not notice him tickling the boys very often. She stated that she is not aware of or has never heard the boys ask Rich to stop or not to tickle them. She stated that she remembers an occasion when all the children were tickling Rich and the boys returned from a visit and jumped right in with the others.

She stated that she did not witness the incident were Jordan was kicked at the Church. But she was aware that it had happen and she was aware that the kick had hurt Jordan. Also that he was very upset. Wendy stated that she was present at the bowling alley when Rich kicked Jordan. She stated that Jordan was having a very bad day bowling and Rich encouraged him to try a little harder. Rich then made the comment if he did not get above a certain score he was going to kick his butt. When walking out of the bowling alley Rich kicked his foot out towards Jordan not intending to kick Jordan. However he did contact and Jordan got upset. Wendy stated that Jordan turned around as if swinging his bowling bag at Rich. She stated that Jordan almost let go of the bag and if it would not have hit Rich it was "going through the glass doors". She stated that when they reached the car Jordan throw his bowling ball in the car hard enough where it hit the door on the opposite side of the car. She stated that it was obvious Jordan

52100 20155

stated that he has heard Rich use the "f word". Lewis reports that Rich and Wendy will go upstairs into their bedroom when fighting. Although they can not hear what they are saying they can hear yelling through the floor.

Lewis was asked about the pornographic movies found. He stated that they have seen movies on more than one occasion. He mentioned finding movies in the upstairs TV area after return from Respite care. Lewis states that he and Jordan were going to watch Toy Story and found an adult movie in the VCR. He also stated that movies were found between the TV and entertainment center. Lewis reported feeling "kind of sick" after discovering the movies. He was asked how he knew they were adult movies and he stated that the front had the word nudity on them. Lewis stated that Rich had talked with him about the movies. Rich told him he wishes that Lewis had come to him first. And if he was to ever find movies again bring them to him so the younger kids do not see them.

When discussing the night they children were left alone Lewis stated the could not remember, which day it was. However he remembered Rich and Wendy left at 8:00pm or a little before. Rich told him the next day that the returned at 11:00pm but Wendy stated it was 10:00pm. Lewis reported that he was watching Sports Center when they left and he thought all the other kids were upstairs. Lewis reports that [REDACTED] and [REDACTED] were all sleeping when the Mette's and Kelly left. Jordan and [REDACTED] were to be in bed at 9:00pm and he was to go to bed at 9:30pm. Lewis reports that everybody was asleep when the Mette's returned. Kelly came up to wake him and Jordan up to help carry in groceries. Neither responded so Rich came up and "got my arm and pulled me out of bed". Lewis then went downstairs and got his coat and shoes on and helped carry the groceries in.

Lewis was asked if they had ever been left home alone before this. He stated that Kelly was left in charge of all the kids when Rich and Wendy attended a Christmas party.

Interview with Jordan Anderson: Jordan reports that he has asked Rich to stop tickling him. Although things are getting better he continues to tickle him from time to time. He stated that Rich usually tickles his neck. He stated that Rich calls the kids names when they are "joking around" with each other.

When talking about the incidents where he was kicked by Rich Jordan was not willing to give a lot of details. He said many times "why don't you ask Rich" or "Rich can tell you what happen". He did talk a little about the incident, which took place at the Church. He stated that Rich was trying to tickle him and he did not want to be tickled so he ran and hid from him. Jordan stated that he hid under the coats in the entryway of the Church. Rich followed him and told him to get up and he said no and this is when Rich reached under the coats and kicked him. The details of what Jordan was telling us was very confusing and we asked several questions. However Jordan was unwilling to give to any details of what had happen.

52100-201

2-22-01

All foster parents are to follow the policies and procedures as outlined by the Department of Social Services while providing care for children entrusted to them. The following is a Safety Plan/Improvement Plan to assist Richard and Wendy Mette to comply with standards, policies and procedures.

There will be an agreement with Richard and Wendy that no physical contact is to occur with the foster children. This is to include, but is not limited to, no swatting or spanking (one swat on buttocks) kicking or tickling. Richard will refrain from kidding with the children by playfully kicking, poking, tickling, etc., as this can be interpreted as being done in a non-kidding manner.

Verbal arguments can be heard throughout the home, and should be conducted outside the home, and only when an approved substitute care provider is present. The children are never to be left unattended, and will be provided with supervision. If Rich and Wendy are unable to supervise, an approved alternate is to be used. Due to regulations, foster children cannot be in the care and supervision of another foster care child.

Mettes have confided there is increased stress due to having five children on a regular basis. Regular and on-going respite care will be utilized by the Mettes. This respite care shall be arranged primarily with the Lones so that the siblings can get together for visitation. This should allow the Mettes some family time with their two adoptive children.

Due to increased anxieties as described by the Mettes, and the increase in verbal arguments, the Mettes are recommended to attend some marital counseling sessions. A suggestion is that a minister can provide the sessions so that the cost is not prohibitive.

To assist the Mettes in dealing with some of the parenting and discipline issues that arise, a recommendation is that Richard and Wendy attend a series of Common Sense Parenting classes. Contact person for this series is Shirley Schwab of the CASA program.

52100-201

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and continue her work with them beyond their leaving the program, to assure a successful transition. Wendy is looking forward to this work. General health remains stable. Family composition and relationships in the home are stable. No areas of noncompliance noted.

5. **Describe the discipline methods which this family has utilized during the past year and relate these facts and observations to licensing standards 67:42:05:06(9) and 67:42:05:15 and describe any noncompliances which are found.**

Rich and Wendy continue to use the time out and time away in the child's room when they need to cool off. They also remove toy, TV, and telephone privileges in order to get the children to think about their behavior. They usually discuss the problem behavior with the children so they understand what they are doing that is getting them in trouble. In the past year they have also begun to assign a chore as a consequence. Rich and Wendy are firm in their limitations and consequences. They also try to keep the children busy so they are less likely to get bored and get into trouble. No areas of noncompliance observed.

6. **Describe the foster parent's parenting skills which have been demonstrated and observed during the past year, (i.e.: helping children deal with separation, ability to show affection and relate to children, age appropriate expectations, involving children in activities of daily living, equal treatment of own and children in foster care, provision of appropriate physical care and clothing, intellectual stimulation, etc.) Relate these facts and observations to the requirements found in 67:42:01:06, 67:42:05:06(3) and (9), 67:42:05:13(1) and describe any noncompliances which are found.**

Wendy and Rich have provided care for their two adopted children, as well as a sibling group of three girls. The girls have three brothers in a different home, and the Mettes try to help the girls maintain contact. They appear to be affectionate towards the children in their care, and can relate to the various ages. The children in the home have their chores. They keep their bedrooms picked up and they all help in clearing the table and washing the dishes. The Mettes have provided appropriate clothing, physical care and educational support for the children in their care.

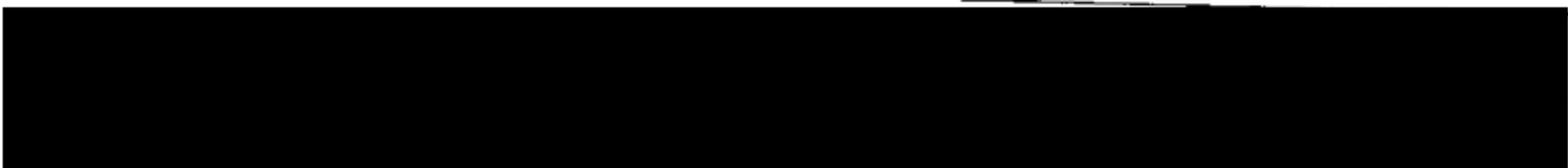
7. **Describe the foster parent's strengths/needs as a member of the DSS team. (i.e. Involvement in case service planning, cooperation in the accomplishment of specific goals/tasks, respect for birth family of child in care, preparation of the child for permanent placement, etc.) Relate these facts and observations to 67:42:01:06, 67:42:05:13 and describe non-compliances which are found.**

The Mettes are very good about attending meetings and keeping on track with appointments. Wendy has a good attitude about birth parents. She is more than willing to talk with the child about their birth parent, gives them permission to miss them, and is cooperative with visitation plans. They have not been involved in the preparation of children for a permanent placement. None of the children they have gotten into care have ever left their home for another placement or for reunification. Rich and Wendy are cooperative and helpful in case planning. No areas of noncompliance seen.

Placement History for Rich and Wendy Mette

5/20/1999 to 7/31/2000	Foster Care
6/01/1999 to 7/31/2000	Foster Care
12/01/1999 to 05/01/2002	Foster Care
2/01/1999 to 05/01/2002	Foster Care
12/01/1999 to 5/01/2002	Foster Care
4/20/2000 to 5/25/2000	Respite Care
4/20/2000 to 5/25/2000	Respite Care
4/20/2000 to 5/25/2000	Respite Care
12/01/2000 to 12/02/2000	Respite Care
12/01/2000 to 12/02/2000	Respite Care
12/01/2000 to 12/02/2000	Respite Care
12/12/2000 to 02/08/2001	Foster Care
12/12/2000 to 02/08/2001	Foster Care
06/08/2001+	Respite Care
06/08/2001+	Respite Care
06/08/2001+	Respite Care
1/31/2002 to 2/22/2002	Foster Care
5/24/2002 to 5/27/2002	Respite Care
9/10/2002 to 1/13/2003	Foster Care
6/28/2003 to 6/30/2003	Respite
6/28/2003 to 6/30/2003	Respite
7/19/2003 to 7/27/2003	Respite
7/19/2003 to 7/27/2003	Respite
8/27/2003 to 8/29/2003	Respite
8/27/2003 to 8/29/2003	Respite
8/29/2003 to 9/02/2003	Respite
8/29/2003 to 9/02/2003	Respite
9/23/2003 to 9/25/2003	Respite
9/23/2003 to 9/25/2003	Respite
11/07/2003 to 11/10/2003	Respite
11/07/2003 to 11/10/2003	Respite
10/03/2003 to 10/06/2003	Respite
10/03/2003 to 10/06/2003	Respite
10/03/2003 to 10/06/2003	Respite
2/03/2004 to 2/08/2004	Respite
2/03/2004 to 2/08/2004	Respite
4/03/2004 to 4/05/2004	Respite
4/03/2004 to 4/05/2004	Respite
4/05/2004 to 4/06/2004	Foster Care
7/06/2004 to 7/10/2004	Foster Care
12/31/2004 to 1/02/2005	Respite
2/12/2005 to 10/28/2005	Foster Care
11/23/2005 to 11/24/2005	Respite
11/23/2005 to 11/24/2005	Respite

— at home



12/08/2005 to 12/11/2005	Respite
12/08/2005 to 12/11/2005	Respite
1/20/2006 to 1/22/2006	Respite
1/20/2006 to 1/22/2006	Respite
2/06/2006 to 2/08/2006	Respite
2/06/2006 to 2/08/2006	Respite
2/20/2006 to 2/21/2006	Respite
2/20/2006 to 2/21/2006	Respite
2/25/2006 to 11/01/2006	Foster Care
2/25/2006 to 11/01/2006	Foster Care

Incident Narrative
07001609

REPORT DATE: 08-13-07

OFFICER ID#: Tarnowski, T. 212

I asked [REDACTED] if anyone gave her a bruise on her arm and she said that her dad did. I asked her to tell me about that and she said:

- When they went to Sioux Falls she was standing in front of a snake and the snake matched her shirt.
- Her dad pushed her in front of the snake, she told him that it hurt and then he pulled her back.
- Her dad looked around to see if anyone was there and then he spanked her.
- Her dad grabbed her really hard and that's when he left the bruise.

I asked [REDACTED] if he grabbed her really hard when he was pushing and pulling her or when he spanked her and she said it was when he spanked her.

I asked [REDACTED] when that happened and she said she didn't remember what day, but she thought it was about a week ago.

I asked [REDACTED] if she still had a mark and she told me that it went away. It should be noted that there was not a visible mark on [REDACTED] arm when we were speaking with her.

I asked [REDACTED] if anyone else is mean to someone in their house and she told me that [REDACTED] is sometimes mean to the other kids in the house, she said he sometimes kicks, pulls hair, punches, and pushes.

I asked [REDACTED] if her dad ever hit anyone and she said that her dad slapped [REDACTED] in the face because he was mad at the two girls, but then he took it out on [REDACTED] by slapping him in the face. [REDACTED] told me that [REDACTED] glasses were bent as a result.

I asked [REDACTED] if her dad had done that to anyone else before and she said that he had done it to her sister, [REDACTED]. She told me that she thought it was when her dad spanked her and [REDACTED] and it left a mark and also one time her dad got mad and kicked [REDACTED] in the thigh. This happened on the same day that her dad left the bruise on her arm that we talked about earlier. [REDACTED] told me that this happened when they were at her Grandma Jean's house in Sioux Falls. [REDACTED] told me that the other people present at that residence when this occurred were her mom, her two little sisters [REDACTED] and [REDACTED], and her brother [REDACTED].

I asked [REDACTED] if anyone ever spanked her with her pants pulled down and she said, "My dad." I asked [REDACTED] when he did that and she said it was a long time ago. I asked [REDACTED] where she was at when he spanked her like that and she said she thought it was in their upstairs living room or her dad's bedroom. I asked [REDACTED] if her dad ever spanked her in the garage like that and she said he did, but it was a long time ago.

I asked [REDACTED] if she knew where the private parts were on a girl and she said she did, I asked her to point to the private areas on a girl and she pointed to her chest and her groin.

I asked [REDACTED] if anyone ever touched her in her private area and she said that her dad did. I asked [REDACTED] to tell me about that and she said that sometimes when she is sitting on her dad's lap when he is on his wheel chair [REDACTED] will start rubbing her stomach and then move his hand up to her chest. [REDACTED] told me that this happened when they were on the street in her dad's wheel chair.

08/02/2007: Assigned to Specialist Evenson.

08/03/2007: Interviewed [REDACTED] with Detective Tarnowski at his home.

08/03/2007: Interviewed [REDACTED] with Detective Tarnowski at her home.

08/03/2007: Interviewed [REDACTED] with Detective Tarnowski at her home.

08/03/2007: Interviewed Rich with Detective Tarnowski at his home.

08/03/2007: Interviewed Wendy with Detective Tarnowski at her home.

08/03/2007: Interviewed [REDACTED] with Detective Tarnowski at her Grandmother [REDACTED] home in Langford, South Dakota.

08/03/2007: Interviewed [REDACTED] with Detective Tarnowski at her Grandmother [REDACTED] home in Langford, South Dakota.

08/03/2007: Interviewed Autumn with Detective Tarnowski at her Grandmother [REDACTED] home in Langford, South Dakota.

08/03/2007: Home Visit at Mette home with Detective Tarnowski. Wendy and Rich agreed to not let Rich be alone with [REDACTED] until Monday.

08/04/2007: Staffed with Supervisor Woolverton.

08/06/2007: Staffed with Supervisor Woolverton.

08/06/2007: PC to Wendy.

08/06/2007: Home Visit with Rich and Wendy. Immediate Protection Plan (IPP) developed for the next ten days.

08/07/2007: IPP signed by [REDACTED]

08/13/2007: Interview with Wendy at her home.

08/13/2007: Request criminal background check on Richard and Wendy Mette.

08/14/2007: Staffed with Supervisor Woolverton.

08/16/2007: Closing with the family at the Mette home

1. Maltreatment: What is the extent of the maltreatment and your finding?

Finding:

The allegation of physical abuse to [REDACTED] and [REDACTED] Mette by their father Rich Mette is unsubstantiated.

The allegation of sexual abuse to [REDACTED] Mette by her father Rich Mette is unsubstantiated.

ABERDEEN POLICE DEPARTMENT

Case Number 09001080 (SD0060100)

Incident Detail Report

Printed On: Thu, Feb 17, 2011

Narrative**Officer: Lunstrum/277****Date: 06/09/2009****Offense: Warrants, Child Abuse and Neglect**

On 06/09/2009 I received a Department of Social Services referral on Laura [REDACTED]. The referral claims that her son, [REDACTED], is not being taken care of properly. The claim states that Laura is drinking alcohol all of the time and is unable to take care of [REDACTED]. The claim states that there was a fight between Laura, Jameson [REDACTED] and [REDACTED]. I contacted D.S.S. case worker, Tessa Everson. Tessa told me that she met with Laura and her boyfriend, Jameson [REDACTED], yesterday. Tessa told me the following:

- Laura and Jameson were fighting with a male named [REDACTED] a couple days ago.
- Tessa spoke with all three parties involved in the fight.
- The police were not called because Laura had warrants for her arrest.
- Tessa thinks another reason why the police were not called is because they were all drinking alcohol and possibly using other drugs.
- [REDACTED] was there during the fight, but was asleep in the bedroom.
- Laura took [REDACTED] to her foster parents Wendy and Rich Mette to watch him that night.
- The day after this fight that occurred, Tessa received the referral on Laura.
- Laura and Jameson gave a voluntary urine sample at St. Lukes Hospital for Tessa.
- The apartment appeared to be ok and there were not any danger areas in the apartment.
- Tessa suggested to Laura that [REDACTED] stay with Rich and Wendy for awhile.
- Laura agreed with Tessa.
- Tessa confirmed that [REDACTED] could stay with Rich and Wendy.
- She needed to go back to the apartment and have Laura and Jameson sign some paperwork.
- Tessa was meeting with Rich and Wendy later today about this incident and was going to make a determination at a later time.

I check with dispatch and was advised that Laura did have 6 active warrants out of Brown County and the warrants were confirmed by the Brown County Jail.

ABERDEEN POLICE DEPARTMENT

Case Number 09001080 (SD0060100)

Ident Detail Report

Printed On: Thu, Feb 17, 2011

Narrative

At 1402hrs, I met with Tessa in front of [REDACTED] Tessa told me that Laura and Jameson knew she was coming to the apartment to meet with them. Tessa knocked on the door and made contact with Jameson. Tessa asked if Laura was there. Jameson said yes and let both of us walk into the apartment. I observed a female that I know as Laura [REDACTED] lying on the living room floor. Tessa had Laura and Jameson fill out the paperwork for DSS on the child abuse case.

I told Laura that she had warrants out of Brown County for her arrest and the warrants again were confirmed by dispatch.

At 1414hrs, I placed Laura under arrest.

In meeting with Tessa, she advised me that she would let me know more after her meeting later today with Rich and Wendy.

I transported Laura to the Brown County Jail, served her a copy of the warrants, and turned her over to the jail staff.

Copies of the warrants are attached.

Officer Lunstrum/277 06/09/2009 1546hrs.

Approved by Det. Sgt. Eric Duven on 06/09/09...

ABE. JEEN POLICE DEPARTMENT

Case Number 10002100 (SD0060100)

Printed On: Mon, Nov 15, 2010

Incident Detail Report

No Active

Officer: Schnabel/218

Date: 10/14/2010

Offense: Child Abuse

On 10/06/2010 I received a call from Brandon Talliaferro in reference to this incident. Brandon told me that he received a call from Cindy Cihak of the Human Resource Center in Yankton. Cindy told him that one of the clients, [REDACTED] disclosed to one of the staff members that there is physical abuse and sexual contact going on at his home. [REDACTED] also disclosed the following:

- His father has been tickling his sisters in their private parts.
- His father spansks the younger girls with shoes and a belt.
- His father will poke the girls in their boobs.
- His mother will hit him every time he gets in trouble with the cops.
- Both his mom and dad whip him on his hands with a belt when he steals.

[REDACTED] also said to staff that he is really concerned about retaliation from his parents against him and his siblings for saying this. Brandon told me that [REDACTED] sister, [REDACTED] verified this information when she was at a family visit for [REDACTED].

Brandon went on to tell me that [REDACTED] is court ordered to be at HSC and the other children, [REDACTED], [REDACTED], [REDACTED], and [REDACTED] are currently with their mother and father, Wendy and Richard Mette. Brandon said he wanted forensic interviews done with all of the children and asked me to set them up and continue with investigation.

I looked up past reports involving the Mette family and saw there was a report taken in August of 2007 involving child abuse. I read through the report and many of the disclosures made by [REDACTED] are similar to what was investigated in this report. See report 07001609 for details.

I contacted Wendy Mette and explained my investigation to her. I also told her that I was asking her permission to have forensic interviews done on all the children. Wendy told me she would have to talk to her attorney first and she would contact me on Thursday. I called Brandon and told him what Wendy said and he told me to contact him on Thursday after Wendy called me back.

I called the Child Assessment Center in Pierre and arranged for the interviews to be conducted

FILED

APR 16 2012

STATE OF SOUTH DAKOTA

COUNTY OF BROWN

SOUTH DAKOTA UNIFIED JUDICIAL SYSTEM
5TH CIRCUIT CLERK OF COURT

By

IN CIRCUIT COURT

FIFTH JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA,

Plaintiff

vs.

WENDY METTE,

Defendant.

Cr. 11-274

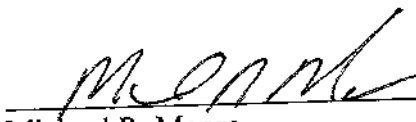
DISMISSAL FOR:

- COUNT I** ABUSE OR CRUELTY TO A MINOR
- COUNT II** ABUSE OR CRUELTY TO A MINOR
- COUNT III** ABUSE OR CRUELTY TO A MINOR
- COUNT IV** ABUSE OR CRUELTY TO A MINOR
- COUNT V** ABUSE OR CRUELTY TO A MINOR
- COUNT VI** ABUSE OR CRUELTY TO A MINOR
- COUNT VII** ABUSE OR CRUELTY TO A MINOR
- COUNT VIII** ABUSE OR CRUELTY TO A MINOR
- COUNT IX** ABUSE OR CRUELTY TO A MINOR
- COUNT X** ABUSE OR CRUELTY TO A MINOR
- COUNT XI** ABUSE OR CRUELTY TO A MINOR

Pursuant to SDCL 23A-44-2, Michael R. Moore, the prosecuting attorney dismisses COUNT I - ABUSE OR CRUELTY TO A MINOR (SDCL 26-10-1); COUNT II - ABUSE OR CRUELTY TO A MINOR (SDCL 26-10-1); COUNT III - ABUSE OR CRUELTY TO A MINOR (SDCL 26-10-1); COUNT IV - ABUSE OR CRUELTY TO A MINOR (SDCL 26-10-

1); COUNT V - ABUSE OR CRUELTY TO A MINOR (SDCL 26-10-1); COUNT VI - ABUSE OR CRUELTY TO A MINOR (SDCL 26-10-1); COUNT VII - ABUSE OR CRUELTY TO A MINOR (SDCL 26-10-1); COUNT VIII - ABUSE OR CRUELTY TO A MINOR (SDCL 26-10-1); COUNT IX - ABUSE OR CRUELTY TO A MINOR (SDCL 26-10-1); COUNT X - ABUSE OR CRUELTY TO A MINOR (SDCL 26-10-1); COUNT XI - ABUSE OR CRUELTY TO A MINOR (SDCL 26-10-1) of the Indictment that has been filed in this case.

Dated this 5th day of April, 2012, at Huron, Beadle County, South Dakota.



Michael R. Moore
Beadle County State's Attorney

FILED

MAR 10 2011

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF BROWN

SOUTH DAKOTA UNIFIED JUDICIAL SYSTEM
5TH CIRCUIT CLERK OF COURT

FIFTH JUDICIAL CIRCUIT

By E

STATE OF SOUTH DAKOTA,

Plaintiff,

vs.

WENDY METTE

Defendant.

CR 11-274

INDICTMENT FOR: /

Counts 1-11

ABUSE OR CRUELTY TO A MINOR in
violation of SDCL 26-10-1

THE BROWN COUNTY GRAND JURY CHARGES:

COUNT 1

That on or between the 1st day of August, 2008 and the 1st day of August, 2009, in the County of Brown, State of South Dakota, WENDY METTE, did commit the public offense of ABUSE OR CRUELTY TO A MINOR in violation of SDCL 26-10-1, in that she did abuse, expose, torture, torment, or cruelly punish a minor, A.M. dob: 8/1/02, in a manner which does not constitute aggravated assault, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 4 Felony

COUNT 2

That on or between the 1st day of August, 2009 and the 1st day of August, 2010, in the County of Brown, State of South Dakota, WENDY METTE, did commit the public offense of ABUSE OR CRUELTY TO A MINOR in violation of SDCL 26-10-1, in that she did abuse, expose, torture, torment, or cruelly punish a minor, A.M. dob: 8/1/02, in a manner which does not constitute aggravated assault, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 4 Felony

COUNT 3

That on or between the 1st day of June, 2007 and the 1st day of June, 2008, in the County of Brown, State of South Dakota, WENDY METTE, did commit the public offense of ABUSE OR CRUELTY TO A MINOR in violation of SDCL 26-10-1, in that she did abuse, expose, torture, torment, or cruelly punish a minor, A.M. dob: 6/1/01, and the victim was less than seven years old at the time, in a manner which does not constitute aggravated assault, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 3 Felony

COUNT 4

That on or between the 1st day of June, 2008 and the 1st day of June, 2009, in the County of Brown, State of South Dakota, WENDY METTE, did commit the public offense of ABUSE OR CRUELTY TO A MINOR in violation of SDCL 26-10-1, in that she did abuse, expose, torture, torment, or cruelly punish a minor, A.M. dob: 6/1/01, in a manner which does not constitute aggravated assault, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 4 Felony

COUNT 5

That on or between the 29th day of June, 2005 and the 29th day of June, 2006, in the County of Brown, State of South Dakota, WENDY METTE, did commit the public offense of ABUSE OR CRUELTY TO A MINOR in violation of SDCL 26-10-1, in that she did abuse, expose, torture, torment, or cruelly punish a minor, M.M. dob: 6/29/97, in a manner which does not constitute aggravated assault, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 4 Felony

COUNT 6

That on or between the 29th day of June, 2007 and the 29th day of June, 2008, in the County of Brown, State of South Dakota, WENDY METTE, did commit the public offense of ABUSE OR CRUELTY TO A MINOR in violation of SDCL 26-10-1, in that she did abuse, expose, torture, torment, or cruelly punish a minor, M.M. dob: 6/29/97, in a manner which does not constitute aggravated assault, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 4 Felony

COUNT 7

That on or between the 25th day of February, 2006 and the 25th day of February, 2007, in the County of Brown, State of South Dakota, WENDY METTE, did commit the public offense of ABUSE OR CRUELTY TO A MINOR in violation of SDCL 26-10-1, in that she did abuse, expose, torture, torment, or cruelly punish a minor, K.M. dob: 2/25/95, in a manner which does not constitute aggravated assault, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 4 Felony

COUNT 8

That on or between the 25th day of February, 2007 and the 25th day of February, 2008, in the County of Brown, State of South Dakota, WENDY METTE, did commit the public offense of ABUSE OR CRUELTY TO A MINOR in violation of SDCL 26-10-1, in that she did abuse, expose, torture, torment, or cruelly punish a minor, K.M. dob: 2/25/95, in a manner which does not constitute aggravated assault, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 4 Felony

COUNT 9

That on or between the 25th day of February, 2008 and the 25th day of February, 2009, in the County of Brown, State of South Dakota, WENDY METTE, did commit the public offense of ABUSE OR CRUELTY TO A MINOR in violation of SDCL 26-10-1, in that she did abuse, expose, torture, torment, or cruelly punish a minor, K.M. dob: 2/25/95, in a manner which does not constitute aggravated assault, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 4 Felony

COUNT 10

That on or between the 7th day of February, 2004 and the 7th day of February, 2005, in the County of Brown, State of South Dakota, WENDY METTE, did commit the public offense of ABUSE OR CRUELTY TO A MINOR in violation of SDCL 26-10-1, in that she did abuse, expose, torture, torment, or cruelly punish a minor, N.M. dob: 2/7/96, in a manner which does not

constitute aggravated assault, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 4 Felony

COUNT 11

That on or between the 7th day of February, 2005 and the 7th day of February, 2006, in the County of Brown, State of South Dakota, WENDY METTE, did commit the public offense of ABUSE OR CRUELTY TO A MINOR in violation of SDCL 26-10-1, in that she did abuse, expose, torture, torment, or cruelly punish a minor, N.M. dob: 2/7/96, in a manner which does not constitute aggravated assault, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 4 Felony

Dated this 10th day of March, 2011 at Aberdeen, South Dakota.

A True Bill
"A TRUE BILL"

THIS INDICTMENT IS MADE WITH THE CONCURRENCE OF AT LEAST SIX GRAND JURORS.

[Signature]
Grand Jury Foreperson

WITNESSES WHO TESTIFIED BEFORE THE GRAND JURY IN REGARD TO THIS INDICTMENT:

Detective Jondahl
Officer Schnabel
Dr. Franne Sippel

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF BROWN)

REQUEST FOR WARRANT

The undersigned, as prosecuting attorney in the above matter does hereby request a Warrant to be issued against the above Defendant.

Dated this 10th day of March, 2011 at Aberdeen, South Dakota.

[Signature]
Prosecuting Attorney

FILED

AUG - 2 2011

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

SOUTH DAKOTA UNIFIED JUDICIAL SYSTEM
5TH CIRCUIT CLERK OF COURT

COUNTY OF BROWN

By

MRZ

FIFTH JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA,

Plaintiff,

vs.

RICHARD PAUL METTE

Defendant.

CR10-1113 *108*

AMENDED 3rd SUPERSEDING
INDICTMENT FOR:

Count 1

CRIMINAL PEDOPHILIA in violation of
SDCL 22-22-30.1

Count 2

CRIMINAL PEDOPHILIA in violation of
SDCL 22-22-30.1

Count 3

FIRST DEGREE RAPE in violation of SDCL
22-22-1(1)

Count 4

THIRD DEGREE RAPE in violation of SDCL
22-22-1(5)

Count 5

THIRD DEGREE RAPE in violation of SDCL
22-22-1(5)

Count 6

SEXUAL CONTACT WITH A CHILD
UNDER THE AGE OF SIXTEEN in violation
of SDCL 22-22-7

Count 7

SEXUAL CONTACT WITH A CHILD
UNDER THE AGE OF SIXTEEN in violation
of SDCL 22-22-7

Count 8

SEXUAL EXPLOITATION OF A MINOR in
violation of SDCL 22-22-24.3

Count 9

SEXUAL CONTACT WITH A CHILD
UNDER THE AGE OF SIXTEEN in violation
of SDCL 22-22-7

Count 10
SEXUAL CONTACT WITH A CHILD
UNDER THE AGE OF SIXTEEN in violation
of SDCL 22-22-7

Count 11
SEXUAL CONTACT WITH A CHILD
UNDER THE AGE OF SIXTEEN in violation
of SDCL 22-22-7

Count 12
FIRST DEGREE RAPE in violation of SDCL
22-22-1(1)

Count 13
SEXUAL CONTACT WITH A CHILD
UNDER THE AGE OF SIXTEEN in violation
of SDCL 22-22-7

Count 14
SEXUAL CONTACT WITH A CHILD
UNDER THE AGE OF SIXTEEN in violation
of SDCL 22-22-7

Count 15
SEXUAL EXPLOITATION OF A MINOR in
violation of SDCL 22-22-24.3

Count 16
SEXUAL CONTACT WITH A CHILD
UNDER THE AGE OF SIXTEEN in violation
of SDCL 22-22-7

Count 17
SEXUAL CONTACT WITH A CHILD
UNDER THE AGE OF SIXTEEN in violation
of SDCL 22-22-7

Count 18
SEXUAL EXPLOITATION OF A MINOR in
violation of SDCL 22-22-24.3

Count 19
ABUSE OR CRUELTY TO A MINOR in
violation of SDCL 26-10-1

	<p>Count 20 ABUSE OR CRUELTY TO A MINOR in violation of SDCL 26-10-1</p> <p>Count 21 ABUSE OR CRUELTY TO A MINOR in violation of SDCL 26-10-1</p> <p>Count 22 ABUSE OR CRUELTY TO A MINOR in violation of SDCL 26-10-1</p> <p>Count 23 ABUSE OR CRUELTY TO A MINOR in violation of SDCL 26-10-1</p>
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THE BROWN COUNTY GRAND JURY CHARGES:

COUNT 1

That on or between the 25th day of February, 2004 and the 30th day of June, 2006, in the County of Brown, State of South Dakota, RICHARD PAUL METTE, did commit the public offense of CRIMINAL PEDOPHILIA in violation of SDCL 22-22-30.1, in that he did an act of sexual penetration with a victim, K.M. dob: 2-25-95, who was less than thirteen (13) years of age while the perpetrator was twenty-six (26) years of age or older, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 1 Felony

COUNT 2

That on or between the 25th day of February, 2006 and the 30th day of June, 2006, in the County of Brown, State of South Dakota, RICHARD PAUL METTE, did commit the public offense of CRIMINAL PEDOPHILIA in violation of SDCL 22-22-30.1, in that he did an act of sexual penetration with a victim, K.M. dob: 2-25-95, who was less than thirteen (13) years of age while the perpetrator was twenty-six (26) years of age or older, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 1 Felony

COUNT 3

That on or about the 25th day of February, 2004 and the 25th day of February, 2005, in the County of Brown, State of South Dakota, RICHARD PAUL METTE, did commit the public offense of FIRST DEGREE RAPE in violation of SDCL 22-22-1(1), in that he did commit the act of sexual penetration with K.M. dob: 2-25-95 while K.M. dob: 2-25-95 was less than ten (10) years of age, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 1 Felony

COUNT 4

That on or between the 25th day of February, 2005 and the 25th day of February, 2008, in the County of Brown, State of South Dakota, RICHARD PAUL METTE, did commit the public

offense of THIRD DEGREE RAPE in violation of SDCL 22-22-1(5), in that he did commit an act of sexual penetration with K.M. dob: 2-25-95 while K.M. dob: 2-25-95 was at least ten (10) years of age but less than sixteen (16) years of age, and he was at least three (3) years older than K.M. dob: 2-25-95, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 3 Felony

COUNT 5

That on or between the 25th day of February, 2006 and the 25th day of February, 2008, in the County of Brown, State of South Dakota, RICHARD PAUL METTE, did commit the public offense of THIRD DEGREE RAPE in violation of SDCL 22-22-1(5), in that he did commit an act of sexual penetration with K.M. dob: 2-25-95 while K.M. dob: 2-25-95 was at least ten (10) years of age but less than sixteen (16) years of age, and he was at least three (3) years older than K.M. dob: 2-25-95, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 3 Felony

COUNT 6

That on or between the 25th day of February, 2003 and the 25th day of February, 2008, in the County of Brown, State of South Dakota, RICHARD PAUL METTE, did commit the public offense of SEXUAL CONTACT WITH A CHILD UNDER THE AGE OF SIXTEEN in violation of SDCL 22-22-7, in that he did, while he was sixteen (16) years of age or older, knowingly engage in sexual contact with another person, K.M. dob: 2-25-95, who is not his spouse, and he was more than three (3) years older than K.M. dob: 2-25-95 at the time, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 3 Felony

COUNT 7

That on or between the 25th day of February, 2003 and the 25th day of February, 2008, in the County of Brown, State of South Dakota, RICHARD PAUL METTE, did commit the public offense of SEXUAL CONTACT WITH A CHILD UNDER THE AGE OF SIXTEEN in violation of SDCL 22-22-7, in that he did, while he was sixteen (16) years of age or older, knowingly engage in sexual contact with another person, K.M. dob: 2-25-95, who is not his spouse, and he was more than three (3) years older than K.M. dob: 2-25-95 at the time, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 3 Felony

COUNT 8

That on or about the 25th day of February, 2003 and the 25th day of February, 2008, in the County of Brown, State of South Dakota, RICHARD PAUL METTE, did commit the public offense of SEXUAL EXPLOITATION OF A MINOR in violation of SDCL 22-22-24.3, in that he caused or knowingly permitted a minor, K.M. dob: 2-25-95, to engage in an activity or the simulation of an activity that is harmful to minors, involves nudity, or is obscene, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 6 Felony

COUNT 9

That on or between the 29th day of June, 2005 and the 29th day of June, 2009, in the County of Brown, State of South Dakota, RICHARD PAUL METTE, did commit the public offense of SEXUAL CONTACT WITH A CHILD UNDER THE AGE OF SIXTEEN in violation of SDCL

22-22-7, in that he did, while he was sixteen (16) years of age or older, knowingly engage in sexual contact with another person, M.M. dob: 6-29-97, who is not his spouse, and **he** was more than three (3) years older than M.M. dob: 6-29-97 at the time, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 3 Felony

COUNT 10

That on or between the 29th day of June, 2005 and the 29th day of June, 2009, in the County of Brown, State of South Dakota, RICHARD PAUL METTE, did commit the public offense of SEXUAL CONTACT WITH A CHILD UNDER THE AGE OF SIXTEEN in violation of SDCL 22-22-7, in that he did, while he was sixteen (16) years of age or older, knowingly engage in sexual contact with another person, M.M. dob: 6-29-97, who is not his spouse, and **he** was more than three (3) years older than M.M. dob: 6-29-97 at the time, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 3 Felony

COUNT 11

That on or between the 29th day of June, 2005 and the 29th day of June, 2009, in the County of Brown, State of South Dakota, RICHARD PAUL METTE, did commit the public offense of SEXUAL CONTACT WITH A CHILD UNDER THE AGE OF SIXTEEN in violation of SDCL 22-22-7, in that he did, while he was sixteen (16) years of age or older, knowingly engage in sexual contact with another person, M.M. dob: 6-29-97, who is not his spouse, and **he** was more than three (3) years older than M.M. dob: 6-29-97 at the time, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 3 Felony

COUNT 12

That on or between the 16th day of February, 2007 and the 29th day of June, 2009, in the County of Brown, State of South Dakota, RICHARD PAUL METTE, did commit the public offense of FIRST DEGREE RAPE in violation of SDCL 22-22-1(1), in that he did commit the act of sexual penetration with M.M. dob: 6-29-97 while M.M. dob: 6-29-97 was less than thirteen (13) years of age, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class C Felony

COUNT 13

That on or about the 1st day of June, 2008 and the 1st day of June, 2010, in the County of Brown, State of South Dakota, RICHARD PAUL METTE, did commit the public offense of SEXUAL CONTACT WITH A CHILD UNDER THE AGE OF SIXTEEN in violation of SDCL 22-22-7, in that he did, while he was sixteen (16) years of age or older, knowingly engage in sexual contact with another person, A.M. dob: 6-1-01, who is not his spouse, and **he** was more than three (3) years older than A.M. dob: 6-1-01 at the time, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 3 Felony

COUNT 14

That on or between the 1st day of June, 2008 and the 1st day of June, 2010, in the County of Brown, State of South Dakota, RICHARD PAUL METTE, did commit the public offense of SEXUAL CONTACT WITH A CHILD UNDER THE AGE OF SIXTEEN in violation of SDCL 22-22-7, in that he did, while he was sixteen (16) years of age or older, knowingly engage in sexual contact with another person, A.M. dob: 6-1-01, who is not his spouse, and **he** was more than three

(3) years older than A.M. dob: 6-1-01 at the time, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 3 Felony

COUNT 15

That on or between the 1st day of June, 2010 and the 14th day of September, 2010, in the County of Brown, State of South Dakota, RICHARD PAUL METTE, did commit the public offense of SEXUAL EXPLOITATION OF A MINOR in violation of SDCL 22-22-24.3, in that he caused or knowingly permitted a minor, A.M. dob: 6-1-01, to engage in an activity or the simulation of an activity that is harmful to minors, involves nudity, or is obscene, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 6 Felony

COUNT 16

That on or between the 1st day of August, 2008 and the 14th day of September, 2010, in the County of Brown, State of South Dakota, RICHARD PAUL METTE, did commit the public offense of SEXUAL CONTACT WITH A CHILD UNDER THE AGE OF SIXTEEN in violation of SDCL 22-22-7, in that he did, while he was sixteen (16) years of age or older, knowingly engage in sexual contact with another person, A.M. dob: 8-1-02, who is not his spouse, and he was more than three (3) years older than A.M. dob: 8-1-02 at the time, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 3 Felony

COUNT 17

That on or between the 1st day of August, 2008 and the 14th day of September, 2010, in the County of Brown, State of South Dakota, RICHARD PAUL METTE, did commit the public offense of SEXUAL CONTACT WITH A CHILD UNDER THE AGE OF SIXTEEN in violation of SDCL 22-22-7, in that he did, while he was sixteen (16) years of age or older, knowingly engage in sexual contact with another person, A.M. dob: 8-1-02, who is not his spouse, and he was more than three (3) years older than A.M. dob: 8-1-02 at the time, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 3 Felony

COUNT 18

That on or between the 1st day of August, 2008 and the 14th day of September, 2010, in the County of Brown, State of South Dakota, RICHARD PAUL METTE, did commit the public offense of SEXUAL EXPLOITATION OF A MINOR in violation of SDCL 22-22-24.3, in that he caused or knowingly permitted a minor, A.M. dob: 8-1-02, to engage in an activity or the simulation of an activity that is harmful to minors, involves nudity, or is obscene, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 6 Felony

COUNT 19

That on or between the 25th day of February, 2001 and the 25th day of February, 2007, in the County of Brown, State of South Dakota, RICHARD PAUL METTE, did commit the public offense of ABUSE OR CRUELTY TO A MINOR in violation of SDCL 26-10-1, in that he did abuse, expose, torture, torment, or cruelly punish a minor, K.M. dob: 2-25-95, in a manner which does not constitute aggravated assault, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 4 Felony

COUNT 20

That on or between the 1st day of June, 2007 and the 14th day of September, 2010, in the County of Brown, State of South Dakota, RICHARD PAUL METTE, did commit the public offense of ABUSE OR CRUELTY TO A MINOR in violation of SDCL 26-10-1, in that he did abuse, expose, torture, torment, or cruelly punish a minor, A.M. dob: 6-1-01, in a manner which does not constitute aggravated assault, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 4 Felony

COUNT 21

That on or between the 1st day of August, 2008 and the 14th day of September, 2010, in the County of Brown, State of South Dakota, RICHARD PAUL METTE, did commit the public offense of ABUSE OR CRUELTY TO A MINOR in violation of SDCL 26-10-1, in that he did abuse, expose, torture, torment, or cruelly punish a minor, A.M. dob: 8-1-02, in a manner which does not constitute aggravated assault, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 4 Felony

COUNT 22

That on or between the 29th day of June, 2004 and the 29th day of June, 2008, in the County of Brown, State of South Dakota, RICHARD PAUL METTE, did commit the public offense of ABUSE OR CRUELTY TO A MINOR in violation of SDCL 26-10-1, in that he did abuse, expose, torture, torment, or cruelly punish a minor, M.M. dob: 6-29-97, in a manner which does not constitute aggravated assault, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 4 Felony

COUNT 23

That on or between the 7th day of February, 2002 and the 7th day of February, 2007, in the County of Brown, State of South Dakota, RICHARD PAUL METTE, did commit the public offense of ABUSE OR CRUELTY TO A MINOR in violation of SDCL 26-10-1, in that he did abuse, expose, torture, torment, or cruelly punish a minor, N.M. dob: 2-7-96, in a manner which does not constitute aggravated assault, contrary to statute in such case made and provided against the peace and dignity of the State of South Dakota. Class 4 Felony

Dated this 29 day of July, 2011 at Aberdeen, South Dakota.

A TRUE BILL
"A TRUE BILL"

THIS INDICTMENT IS MADE WITH THE CONCURRENCE OF AT LEAST SIX GRAND JURORS.

Kathy A. Hecker
Grand Jury Foreperson

FILED

STATE OF SOUTH DAKOTA) MAR - 9 2010 IN CIRCUIT COURT
COUNTY OF BROWN)
SOUTH DAKOTA UNIFIED JUDICIAL SYSTEM
5TH CIRCUIT CLERK OF COURT FIFTH JUDICIAL CIRCUIT

By MRZ

AMY KRUEGER as Guardian Ad Litem
for Jane Doe, a minor,

Plaintiff,

vs.

AMY REYES, individually and her
capacity as an employee of the South
Dakota Department of Social Services;
LAURA WOOLVERTON, individually and
her capacity as an employee of the South
Dakota Department of Social Services;
STEVE SCHUMAN, STEPHANIE
SCHUMAN, PHILIP MURRAY and
NORTHEASTERN MENTAL HEALTH
CENTER,

Defendants.

Civ. # 10-227
/ 2

COMPLAINT

PARTIES AND JURISDICTION

1. Jane Doe is a minor child born February 6, 1999 who presently resides in Sioux Fall, South Dakota.
2. Amy Krueger is an adult resident of Brown County who was appointed to serve as Jane Doe's Guardian Ad Litem by Court Order from Brown County, South Dakota dated July 15, 2008.
3. At all times relevant to this Complaint, Jane Doe has been in the legal and physical custody and care of the South Dakota Department of Social Services.

4. At all relevant times to this Complaint between 2007 and 2008, Amy Reyes was a social worker (Family Services Specialist) for the South Dakota Department of Social Services, Child Protection Services, who was responsible for the daily needs and care of Jane Doe while she was in the custody of the Department of Social Services.

5. At all relevant times to this Complaint between 2007 and 2008, Laura Woolverton was a Social Services supervisor for the South Dakota Department of Social Services, Child Protection Services, who was responsible for the daily needs and care of Jane Doe while she was in the custody of the Department of Social Services.

6. Northeastern Mental Health Center is a corporate entity that operates behavioral health services in Brown County, South Dakota. At all times relevant to this Complaint between 2007 and 2008, Northeastern Mental Health Center was providing foster care placement for Jane Doe via a contract with the South Dakota Department of Social Services.

7. Stephanie Schuman and Steve Schuman are a married couple who reside in Brown County, South Dakota. In 2007 and 2008, Stephanie and Steve Schuman were compensated to assume the custody and care of Jane Doe in a "therapeutic" foster care placement through a contract with Northeastern Mental Health Center beginning in December 2007.

8. To the best of Plaintiff's knowledge, Phillip Murray is now an adult male who was last known to be in the care, custody or control of Northeastern Mental Health Center in Aberdeen, South Dakota.

9. By Court Order dated March 30, 2009 and served on or about April 2, 2009, Jane Doe was permitted to file a notice of claim against various state of South

Dakota employees. Her statutory notice pursuant to SDCL§ 3-21-3(1) was given on or about October 8, 2009.

10. This Court has jurisdiction over the matter.

FACTUAL ALLEGATIONS

11. In late 2005, at age six, Jane Doe was placed in Department of Social Services, Office of Child Protection Services (“DSS”) custody because of allegations of physical abuse by her father and her mother’s violation of a protection order by allowing contact between Jane Doe and her father despite knowledge of his abuse.

12. After being placed in foster care through the DSS in 2005, Jane Doe disclosed that she had been sexually abused by her father.

13. On May 2006, Jane Doe was placed in a long-term treatment facility at Children’s Home Society in Sioux Falls under DSS custody. At that time, she was diagnosed with Post-traumatic Stress Disorder, depressive disorder, parent-child relational problem, and neglect and sexual abuse of a child. This included a documented issue with sexualized behavior that was ongoing in 2007.

14. During her stay at Children’s Home Society, Jane Doe received therapy from Lisa Johnson, MS. Jane Doe also received therapy from Dr. Fran Sippel.

15. Throughout her stay at Children’s Home Society, the DSS has maintained custody and was aware of Jane Doe’s diagnosis and symptoms.

16. On or about December 3, 2007, Jane Doe was discharged from Children’s Home Society and placed in a “therapeutic foster home” under the supervision of Northeastern Mental Health Center (“NEMHC”).

17. Jane Doe's "therapeutic foster home" placement through NEMHC was with Steve and Stephanie Schuman in their home in Aberdeen, South Dakota.

18. Prior to accepting placement of Jane Doe, NEMHC had arranged for Philip Murray to be in a foster care placement with Steve and Stephanie Schuman in their home.

19. To the best of Plaintiff's knowledge, Murray was either 17 or 18 years old at the time Jane Doe was placed in therapeutic foster care with Steve and Stephanie Schuman in their home.

20. To the best of Plaintiff's knowledge, Murray had been in the custody and care of NEMHC in one of its residential care facilities, Dakota House, before he was placed in foster care with Steve and Stephanie Schuman in their home.

21. NEMHC was aware of Murray's propensity to sexually act out toward minor children at the time it recommended Jane Doe's therapeutic foster care placement with Steve and Stephanie Schuman in their home in December 2007.

22. Steve and Stephanie Schuman were aware of Murray's propensity to sexually act out toward minor children at the time they accepted Jane Doe as a therapeutic foster care child.

23. Murray and Jane Doe were assigned to the only two upstairs bedrooms of the Schuman home while the Schuman's had their bedroom in a downstairs room.

24. NEMHC, Steve Schuman and Stephanie Schuman devised a plan to use a baby monitor set in the hallway of their home near Murray's bedroom door as an "alarm" or way to monitor Murray's interaction with Jane Doe in bedroom area of the home.

25. NEMHC was compensated for providing "intensive case management," which was supposed to include physical and mental treatment and care for Jane Doe between December 2007 and April 2008.

26. NEMHC was aware of Jane Doe's history of sexual abuse, PTSD, depressive disorder and the related symptoms of sexualized behavior at the time that it recommended therapeutic foster care placement with Steve and Stephanie Schuman and Murray in the Schuman home in December 2007.

27. Amy Reyes was aware of Jane Doe's history of sexual abuse, PTSD, depressive disorder and related symptoms of sexualized behavior at the time that she recommended therapeutic foster care placement with Steve and Stephanie Schuman and Murray in the Schuman home in December 2007.

28. Laura Woolverton was aware of Jane Doe's history of sexual abuse, PTSD, depressive disorder and related symptoms of sexualized behavior at the time that she approved the therapeutic foster care placement with Steve and Stephanie Schuman and Murray in their home in December 2007.

29. Steve Schuman and Stephanie Schuman were aware of Jane Doe's history of sexual abuse, PTSD, depressive disorder and parent-child relational problems and the related symptoms of sexualized behavior at the time that they accepted therapeutic foster care placement of Jane Doe on or about December 2007.

30. On December 4, 2007, December 12, 2007, December 18, 2007, December 27, 2007, and January 3, 2008, Reyes and NEMCH clinician Nikki Kraft made personal visits to the Schuman home and could observe that Murray also lived in the home, that Murray and Jane Doe were assigned to the upstairs bedrooms; and that a baby

monitor and/or some sort of alarm on Murray's door was being used to supervise Murray and Jane Doe in the upstairs of the home.

31. On January 8, 2008, Jane Doe was evaluated by Dr. Mesa, a psychiatrist. Present at the exam were Nikki Kraft and Stephanie Schuman. During his evaluation, Dr. Mesa became concerned about the placement of Jane Doe in the Schuman home with Philip Murray and documented as follows:

"I seem to recall that one of the youngsters in that setting (a foster child himself) has had a history of sexually acting out. This is certainly an area to be very vigilant about. [Jane Doe] has a history of sexualized behavior herself, which is probably stemming from her history of sexual abuse. Her history does certainly make her vulnerable to victimization. Ms. Kraft tells me that they are well aware of this situation and that they are particularly vigilant. She tells me that they have installed some sort of an alarm in this young man's bedroom door."

(Aberdeen Psychiatric Associates record, 1/08/08) This record was sent directly to Laura Woolverton by Dr. Mesa's office.

32. On January 9, 2008, Reyes and Kraft had a conference where Kraft summarized the visit with Dr. Meza and his recommendations.

33. Neither Reyes, Woolverton, Stephanie Schuman, Steve Schuman or NEMHC took any measures to protect Jane Doe from sexual assault despite Dr. Mesa's documented concerns.

34. On February 13, 2008, Jane Doe returned for a session with Dr. Mesa in the company of Nikki Kraft and Stephanie Schuman. At this session, Dr. Mesa made the following extensive documentation of concern about Jane Doe's risk of victimization in the Schuman home:

“We had the opportunity to discuss with the patient’s foster mother, once again, our recommendations having to do with particularly careful supervision of the patient and the other foster child at the home. The patient’s foster mother does report that she has been very careful and that she is aware of where they are at all times. She has noticed that [Jane Doe] tries to “flirt” with this young man. Foster mother also reports that [Jane Doe] has been complaining of soreness in her genital area. Foster mother thinks that [Jane Doe] might have been masturbating. All these reports certainly suggest ongoing posttraumatic symptoms. Naturally, the report of soreness in her genital area must also raise other possibilities, even if they appear to be not too probable at this point. For these reasons, I recommended to the patient’s foster mother that Emily have a physical as soon as possible.”

Dr. Mesa further documented his impression of “Complaints of genital soreness” and his plan as follows: “I instructed the patient’s foster mother to have [Jane Doe] undergo a physical examination by her primary care physician as soon as possible.”

(Aberdeen Psychiatric Associates record, 2/08/08) This record was sent directly to Laura Woolverton by Dr. Mesa’s office.

35. Reyes received and reviewed Dr. Meza’s faxed medical records on February 13, 2008.

36. Despite Dr. Mesa’s recommendation and Jane Doe’s uncomfortable symptoms, neither Neither Reyes, Woolverton, Stephanie Schuman, Steve Schuman or NEMHC took Jane Doe to a physician for a physical in February 2008.

37. Steve Schuman and Stephanie Schuman observed “flirting” and frequent physical touching between Jane Doe and Murray on Murray’s arms, legs and shoulders during the time Jane Doe was under their care and supervision.

38. Murray wrote notes to Jane Doe while they were living together in the Schuman home in which he stated “I love you very much,” expressed that he thought she was beautiful, advised that she shouldn’t let Stephanie Schuman see the note so they wouldn’t get in trouble and referred to himself as her “Daddy.”

39. Neither Reyes, Woolverton, Stephanie Schuman, Steve Schuman or NEMHC took any measures to protect Jane Doe from sexual assault despite Dr. Mesa's documented concerns or other evidence of inappropriate behaviors between Murray and Jane Doe.

40. Between January and March 2008, Murray repeatedly sexually and emotionally assaulted Jane Doe in the Schuman home and while in the Schuman's care at their church.

41. Between January and March 2008, Jane Doe's behavior began to deteriorate and she increasingly expressed classic symptoms of sexual assault including being tearful, fearful, defiant, aggressive and upset about being in the Schuman home. By March 2008 Jane Doe was also experiencing pronounced facial tics, vocal tics such as grunting and whispering to herself, twitching and sniffing.

42. Late February and early March 2008, Jane Doe began openly expressing being unhappy in foster care and not wanting to return to the Schuman home.

43. On February 20, 2008, when DSS considered an alternative placement for Jane Doe for financial reasons, NEMHC employee Nikki Kraft strongly recommended Jane Doe's continued placement in the Schuman home to Reyes, representing that it was an appropriate and stable placement for Jane Doe.

44. Jane Doe's treating therapist, Dr. Sippel was never informed that Jane Doe was living in foster care with a 17 year old male who had a history of perpetration.

45. On March 4, 2008, when a DSS case worker arrived to take Jane Doe from Dr. Sippel's office back to the Schuman home, Jane Doe refused to leave Dr. Sippel's office, locked herself in the bathroom crying, insisted on seeing Dr. Sippel again and

threatened to run away from the Schuman home. The DSS worker told her that Dr. Sippel did not have time and returned her to the Schuman home.

46. On or about March 7, 2008, Stephanie Schuman left Jane Doe and Murray alone in the bedroom area of the home for a period of time together while Murray was preparing to take a bath. When she returned to supervise them, Jane Doe reported to her that Murray had touched her breast.

47. Stephanie Schuman responded to Jane Doe's report by chastising Jane Doe for being with Murray, accusing Jane Doe of trying to get Murray "in trouble," and telling Jane Doe that she did not believe her report of sexually inappropriate touching.

48. After Schuman accused Jane Doe of lying, Schuman claimed that Jane Doe recanted her claim that Murray had touched her breast.

49. Neither Steve Schuman or Stephanie Schuman reported Jane Doe's allegation of inappropriate sexual contact by Murray to the police, DSS, Dr. Mesa or Dr. Sippel.

50. Stephanie Schuman reported Jane Doe's allegation of Murray's sexual abuse to Nikki Kraft, a NEMHC employee.

51. There is no documentation or record of Schuman's report of possible sexual abuse to NEMHC in NEMHC records.

52. On March 10, 2008, NEMHC called Reyes to report that Jane Doe had made an allegation of sexually inappropriate touching against Murray.

53. On March 11, 2008, Jane Doe reported to Dr. Sippel that Murray was "touching her inappropriately. She reports that it happens everyday." (Northern Plains Psychological Associates record, 3/11/08) Jane Doe further reported to Dr. Sippel that

she had informed Stephanie Schuman of Murray's inappropriate touching and that Stephanie Schuman responded by telling Jane Doe that she did not believe her.

54. Murray admits that Jane Doe's report of an incident in the Schuman bathroom did occur, that he and Jane Doe had been in the bathroom together at the Schuman home while he was preparing to take a bath, that they had some physical contact, but alleges that Jane Doe had been the aggressor.

55. Murray reported that Stephanie Schuman was aware of the bathroom incident and had been really "pissed" when she found out that it had been reported to the police.

56. After being removed from the Schuman home, Jane Doe disclosed that Murray had sexually assaulted her in her bedroom in the Schuman home, in the hallway in the Schuman home, in the bathroom at the Schuman home, and at the church nursery room when the Schuman's were in meetings.

57. On March 13, 2008, Jane Doe was taken to see a physician. She was diagnosed and required treatment for two different gynecological conditions which are commonly related to childhood sexual abuse.

COUNT ONE: NEGLIGENCE

(Reyes & Woolverton)

58. Reyes and Woolverton had a duty to provide supervision, treatment and safe placement for Jane Doe, an abused child, while she was in DSS custody.

59. Both Reyes and Woolverton had extensive involvement with Jane Doe, Jane Doe's minor sister, Jane Doe's biological mother and Jane Doe's treating therapists before her placement in the Schuman home.

60. Reyes and Woolverton maintained control over Jane Doe's placement, medical and psychological care and treatment and activities.

61. Reyes and Woolverton were responsible to monitor all of Jane Doe's activities and behaviors to protect her from harm and abuse.

62. Reyes knew or should have known:

a) that Murray was residing in a bedroom next to Jane Doe's bedroom in the Schuman home during Jane Doe's therapeutic foster care placement there;

b) that Murray posed a danger to Jane Doe as a sexual predator if allowed unsupervised access to her;

c) that a baby monitor in the hallway and/or door alarm was not a sufficient protection from sexual assault for any minor child living with a sexual predator;

d) that there was a probability that Jane Doe would be sexually abused if not properly cared for and supervised;

e) that Jane Doe required medical care and treatment based upon Dr. Mesa's 2/08/08 written report; and

f) that Jane Doe's treating therapist had not been provided with complete or accurate information about her placement in the Schuman home.

63. Woolverton knew or should have known:

a) that Murray was residing in the bedroom next to Jane Doe's bedroom in the Schuman home during Jane Doe's therapeutic foster care placement there;

b) that Murray posed a danger to Jane Doe as a sexual predator if allowed unsupervised access to her;

c) that a baby monitor in the hallway and/or door alarm was not a sufficient protection from sexual assault for any minor child living with a sexual predator;

d) that there was a probability that Jane Doe would be sexually abused if not properly cared for and supervised;

e) that Jane Doe required medical care and treatment based upon Dr. Mesa's 2/08/08 written report; and

f) that Jane Doe's treating therapist had not been provided with complete or accurate information about her placement in the Schuman home.

64. During her stay in the Schuman's home, Jane Doe began to exhibit signs of sexual abuse.

65. Murray's sexual assaults and related emotional abuse of Jane Doe were foreseeable.

66. Murray's sexual assaults and related emotional abuse of Jane Doe were preventable.

67. Reyes and Woolverton had a duty to protect Jane Doe from abuse and harm by Murray.

68. Reyes failed to follow the recommendation of Jane Doe's treating therapists and doctor about her placement needs prior to her placement in the Schuman home; failed to follow Jane Doe's doctor's directives about medical care and supervision once she was in the Schuman's home; failed to evaluate Steve and Stephanie Schuman's appropriateness as caretakers for Jane Doe; failed to make proper home visits to determine whether Jane Doe was safe and supervised in the Schuman home; failed to read records from Jane Doe's physician regarding her needs; failed to consult with Jane

Doe about her living conditions and her reasons for exhibiting symptoms such as wanting to run away and refusing to leave her therapist's office; and failed to provide full and accurate information about Jane Doe's placement to Jane Doe's treating therapist.

69. Woolverton failed to read records from Jane Doe's physician regarding Jane Doe's needs and well-being; failed to consult with Jane Doe's treating therapists and doctor about her placement needs; failed to follow Jane Doe's doctor's directives about medical care and supervision; failed to evaluate Steve and Stephanie Schuman's appropriateness as caretakers for Jane Doe; and failed to provide full and accurate information about Jane Doe's placement to Jane Doe's treating therapist

70. Since her therapeutic foster care placement in the Schuman home with Murray, Jane Doe has been unable to form appropriate familial bonds and has suffered a significant set-back in her ability to be adopted into a family setting or placed in a foster care home setting.

71. As a direct and proximate result of Reyes and Woolverton's negligence:

- a. Jane Doe suffered sexual and emotional abuse while in DSS custody;
- b. Jane Doe suffered physical pain and discomfort resulting from a failure to provide medical attention at her doctor's directive;
- c. Jane Doe suffered physical pain and discomfort and an aggravation of the symptoms of her PTSD, including facial and verbal tics, excessive sniffing, twitching, fidgeting and agitation;
- d. Jane Doe suffered a permanent injury and impairment in her ability to trust others, which has severely and negatively impacted her ability to be adopted or to maintain healthy relationships with adults or family members;

e. Jane Doe has suffered vocational loss and the loss of enjoyment in life related to the sexual assault, the loss of trust she has endured and the physical symptoms she exhibits as a result.

72. Jane Doe has required medical and psychological care and will require life-long therapy and care, including prescription medications, vocational assistance, in-patient treatment, and extended institutional foster care to cope with her injuries.

COUNT TWO: 42 USCA § 1983

(Reyes and Woolverton)

73. Jane Doe has a Fourteenth Amendment to be free from abuse and neglect while in DSS custody and control.

74. Jane Doe's constitutional right to be free from abuse and neglect while in DSS custody is a clearly established right.

75. As employees of the DSS responsible for Jane Doe's care, Reyes and Woolverton each had a ministerial duty to protect Jane Doe by supervising and documenting the circumstances of Jane Doe's placement, providing accurate information about Jane Doe's placement and physical condition to her treating therapist and doctor, conferring with Jane Doe's foster parents or Jane Doe on at least a monthly basis, and following the directives of Jane Doe's treating physician and clinicians.

76. Reyes had knowledge from her December and January home visits that Murray resided in the Schuman home with Jane Doe; that Murray had a history as a perpetrator, was in custodial foster care in the Schuman home and was considered a risk of harm to himself or Jane Doe; that Murray had a bedroom upstairs in the home next to Jane Doe's bedroom; that there was no adult to supervise Murray and Jane Doe when they were upstairs in the bedroom or bathroom; that a baby monitor in the hallway or an

alarm on Murray's door was not sufficient to prevent sexual abuse; that Jane Doe was at risk of abuse from Murray; that Jane Doe was exhibiting concerning symptoms in February 2008 and required a physical exam as soon as possible; that Jane Doe's treating therapist had not been provided with accurate or complete information about her foster care placement in the Schuman home; and that Jane Doe expressed being unhappy in the Schuman home, threatened to run away and was having an aggravation of physical and emotional symptoms related to childhood sexual abuse while living in the Schuman home.

77. Woolverton had knowledge that Murray resided in the Schuman home with Jane Doe; that Murray had a history as a perpetrator, was in custodial foster care in the Schuman home and was considered a risk of harm to himself or Doe; that a baby monitor in the hallway or an alarm on Murray's door was not sufficient to prevent sexual abuse; that Jane Doe was at risk of abuse from Murray; that Jane Doe was exhibiting concerning symptoms in February 2008 and required a physical exam as soon as possible; that Jane Doe's treating therapist had not been provided with accurate or complete information about her foster care placement in the Schuman home; and that Jane Doe was increasingly unhappy in the Schuman home, threatened to run away and was having an aggravation of her physical and emotional symptoms related to childhood sexual abuse while living in the Schuman home.

78. Reyes and Woolverton acted with reckless and deliberate indifference to the rights, safety and well-being of Jane Doe and deprived her of her constitutionally protected rights to be free from abuse and neglect by failing to find a safe foster home placement for Jane Doe; by failing to follow the directives of Jane Doe's physician; by

failing to provide accurate information to Jane Doe's treating therapist; by failing to properly investigate Jane Doe's living conditions in the Schuman home to assure her safety; and by failing to maintain properly contact with Jane Doe and both foster parents.

79. As a direct and proximate result of Reyes and Woolverton's deliberate disregard of Jane Doe's rights:

- a. Jane Doe suffered sexual and emotional abuse while in DSS custody;
- b. Jane Doe suffered physical pain and discomfort resulting from a failure to provide medical attention at her doctor's directive;
- c. Jane Doe suffered physical pain and discomfort and an aggravation of the symptoms of her PTSD, including facial and verbal tics, excessive sniffing, twitching, fidgeting and agitation;
- d. Jane Doe suffered a permanent injury and impairment in her ability to trust others, which has severely and negatively impacted her ability to be adopted or to maintain healthy relationships with adults or family members; and
- e. Jane Doe has suffered vocational loss and the loss of enjoyment in life related to the sexual assault, the loss of trust she has endured and the physical symptoms she exhibits as a result.

80. Jane Doe has required medical and psychological care and will require life-long therapy and care, including prescription medications, vocational assistance, in-patient treatment, and extended institutional foster care to cope with her injuries.

COUNT THREE: NEGLIGENCE

(NEMHC)

81. NEMHC contracted for and assumed duties to provide safety and therapeutic treatment for Jane Doe between December 2007 and March 2008.

82. NEMHC was compensated to provide safety and treatment for Jane Doe between December 2007 and March 2008.

83. NEMHC maintained control over Jane Doe's placement and all medical and psychological care and treatment and activities between December 2007 and March 2008.

84. Through its agents and employees, NEMHC knew or should have known:

a) that Murray was residing in a bedroom next to Jane Doe's bedroom in the Schuman home during Jane Doe's therapeutic foster care placement there;

b) that Murray posed a danger to Jane Doe as a sexual predator if allowed unsupervised access to her;

c) that a baby monitor in the hallway and/or door alarm was not a sufficient protection from sexual assault for any minor child living with a sexual predator;

d) that there was a probability that Jane Doe would be sexually abused if not properly cared for and supervised;

e) that Jane Doe required medical care and treatment based upon Dr. Mesa's 2/08/08 written report;

f) that Jane Doe was exhibiting signs and symptoms of sexual abuse while residing in the Schuman's home;

g) that Jane Doe had reported inappropriate contact by Murray and had been exhibiting "flirtatious" and other inappropriate behaviors around him while she was living in the Schuman home; and

h) that Jane Doe's treating therapist had not been provided with complete or accurate information about her placement in the Schuman home.

85. Murray's sexual assaults and related emotional abuse of Jane Doe were foreseeable.

86. Murray's sexual assaults and related emotional abuse of Jane Doe were preventable.

87. Jane Doe began exhibiting symptoms of sexual abuse after being placed in the Schuman residence.

88. NEMHC and its employees and agents had a duty to protect Jane Doe from abuse and harm by Murray.

89. NEMHC failed to consult with Jane Doe's treating therapists and doctor about her placement needs; failed to follow Jane Doe's doctor's directives about medical care and supervision; failed to evaluate Steve and Stephanie Schuman's appropriateness as caretakers for Jane Doe; failed to make proper home visits to determine whether Jane Doe was safe and supervised in the Schuman home; failed to accurately document Jane Doe's needs or living conditions; and failed to make timely or accurate reports about Jane Doe's living conditions to the police or Jane Doe's treating therapist to protect Jane Doe from further abuse.

90. NEMHC failed to provide proper training and supervision to Steve and Stephanie Schuman about preventing and reporting suspected sexual abuse.

91. Since her therapeutic foster care placement in the Schuman home with Murray, Jane Doe has been unable to form appropriate familial bonds and has suffered a significant set-back in her ability to be adopted into a family setting or placed in a foster care home setting.

92. As a direct and proximate result of NEMHC's negligence:

a. Jane Doe suffered sexual and emotional abuse while in NEMHC “therapeutic foster care” placement;

b. Jane Doe suffered physical pain and discomfort resulting from a failure to provide medical attention at her doctor’s directive;

c. Jane Doe suffered physical pain and discomfort and an aggravation of the symptoms of her PTSD, including facial and verbal tics, excessive sniffing, twitching, fidgeting and agitation;

d. Jane Doe suffered a permanent injury and impairment in her ability to trust others, which has severely and negatively impacted her ability to be adopted or to maintain healthy relationships with adults or family members;

e. Jane Doe has suffered vocational loss and the loss of enjoyment in life related to the sexual assault, the loss of trust she has endured and the physical symptoms she exhibits as a result; and

93. Jane Doe has required medical and psychological care and will require life-long therapy and care, including prescription medications, vocational assistance, in-patient treatment, and extended institutional foster care to cope with her injuries.

COUNT FOUR: NEGLIGENCE

(Steve and Stephanie Schuman)

94. Steve Schuman and Stephanie Schuman contracted for and assumed duties to provide safety and home care for Jane Doe between December 2007 and March 2008.

95. Steve and Stephanie Schuman were compensated to provide safety and home care for Jane Doe between December 2007 and March 2008.

96. Steve and Stephanie Schuman shared control over Jane Doe's placement and medical and psychological care and treatment and activities between December 2007 and March 2008.

97. Steve and Stephanie Schuman knew or should have known:

a) that Murray was residing in a bedroom next to Jane Doe's bedroom in the Schuman home during Jane Doe's therapeutic foster care placement there;

b) that Murray posed a danger to Jane Doe as a sexual predator if allowed unsupervised access to her;

c) that a baby monitor in the hallway and/or door alarm was not a sufficient protection from sexual assault for any minor child living with a sexual predator;

d) that there was a probability that Jane Doe would be sexually abused if not properly cared for and supervised;

e) that Jane Doe required medical care and treatment based upon Dr. Mesa's 2/08/08 written report;

f) that Jane Doe was exhibiting signs and symptoms of sexual abuse while residing in their home;

g) that Jane Doe had reported inappropriate contact by Murray and had been exhibiting "flirtatious" and other inappropriate behaviors around him while she was living in the Schuman home; and

h) that Jane Doe's treating therapist had not been provided with complete or accurate information about her placement in the Schuman home.

98. Stephanie Schuman knew or should have know that Jane Doe's report about inappropriate sexual touching should have been reported to her therapist and/or the police

without Schuman's suggestion that Jane Doe was lying or trying to get Murray into trouble.

99. Murray's sexual assaults and related emotional abuse of Jane Doe were foreseeable.

100. Murray's sexual assaults and related emotional abuse of Jane Doe were preventable.

101. Steve and Stephanie Schuman had a duty to protect Jane Doe from abuse and harm by Murray.

102. Steve and Stephanie Schuman accepted placement of Jane Doe into their home for compensation when they knew it would be unsafe for Jane Doe to reside there; placed Jane Doe in an unsupervised bedroom next to Murray's bedroom when they knew both children had histories of sexually acting out; failed to follow Jane Doe's doctor's directives about medical care and supervision; failed to timely or accurately report the conditions of Jane Doe's living conditions to the DSS or the police; failed to report Jane Doe's symptoms of sexual abuse; and failed to take steps to protect Jane Doe from sexual and emotional abuse.

103. Since her therapeutic foster care placement in the Schuman home with Murray, Jane Doe has been unable to form appropriate familial bonds and has suffered a significant set-back in her ability to be adopted into a family setting or placed in a foster care home setting.

104. As a direct and proximate result of Steven and Stephanie Schuman's negligence:

- a. Jane Doe suffered sexual and emotional abuse while in “therapeutic foster care” placement in the Schuman home;
- b. Jane Doe suffered physical pain and discomfort resulting from a failure to provide medical attention at her doctor’s directive;
- c. Jane Doe suffered physical pain and discomfort and an aggravation of the symptoms of her PTSD, including facial and verbal tics, excessive sniffing, twitching, fidgeting and agitation;
- d. Jane Doe suffered a permanent injury and impairment in her ability to trust others, which has severely and negatively impacted her ability to be adopted or to maintain healthy relationships with adults or family members; and
- e. Jane Doe has suffered vocational loss and the loss of enjoyment in life related to the sexual assault, the loss of trust she has endured and the physical symptoms she exhibits as a result.

105. Jane Doe has required medical and psychological care and will require life-long therapy and care, including prescription medications, vocational assistance, in-patient treatment, and extended institutional foster care to cope with her injuries.

COUNT FOUR: NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

(Stephanie Schuman)

106. Stephanie Schuman observed numerous instances of inappropriate and “flirtatious” conduct between Jane Doe and Murray while the two were residing in her home under foster care.

107. Stephanie Schuman took no reasonable measures to stop what was clearly inappropriate contact between a 9 year old sexual abuse victim and a 17 year old male she had just met.

108. Stephanie Schuman knew or should have known that Murray was writing inappropriate notes to Jane Doe about her beauty, how much he loved her and signing them as "Daddy" but took no steps to monitor this interaction between Murray and Doe while they were in her care.

109. Stephanie Schuman observed at least one incident where Jane Doe and Murray were together, unsupervised in or near a bathroom while Murray was preparing to take a bath when Jane Doe alleged Murray touched her in a sexually inappropriate manner.

110. Stephanie Schuman represented to Murray, Jane Doe and Jane Doe's case worker that Jane Doe was a liar about the bathroom incident.

111. Stephanie Schuman knew that Jane Doe had history of being sexually abused, had a difficult parent-child relationship and required special care to feel safe and develop trust in adults.

112. Stephanie Schuman aided Murray in his perpetration of sexual and emotional abuse by telling both Murray and Jane Doe to believe that any inappropriate conduct between them was either Jane Doe's fault or that Jane Doe was not worthy of being believed.

113. Stephanie Schuman observed that Jane Doe began to express symptoms of sexual abuse while living in the Schuman home but did not accurately report to DSS, Jane Doe's therapist or doctor or the police.

114. Stephanie Schuman caused Jane Doe to suffer extreme emotional distress which developed in to physical symptoms that required care and treatment by telling both Murray and Jane Doe that any inappropriate conduct between them was either Jane Doe's fault or that Jane Doe was not worthy of being believed.

115. Stephanie Schuman's response to Jane Doe's report of sexually inappropriate touching and her observations of flirtation and touching between Jane Doe and Murray was contrary to foster care parent training and licensing requirements and is extreme and outrageous behavior for a foster parent.

116. Since her therapeutic foster care placement in the Schuman home with Murray, Jane Doe has been unable to form appropriate familial bonds and has suffered a significant set-back in her ability to be adopted into a family setting or placed in a foster care home setting.

117. As a direct and proximate result of Stephanie Schuman's negligent infliction of emotional distress upon Jane Doe:

- a. Jane Doe suffered sexual and emotional abuse while in "therapeutic foster care" placement in her home;
- b. Jane Doe suffered physical pain and discomfort resulting from a failure to provide medical attention at her doctor's directive;
- c. Jane Doe suffered physical pain and discomfort and an aggravation of the symptoms of her PTSD, including facial and verbal tics, excessive sniffing, twitching, fidgeting and agitation;

d. Jane Doe suffered a permanent injury and impairment in her ability to trust others, which has severely and negatively impacted her ability to be adopted or to maintain healthy relationships with adults or family members; and

e. Jane Doe has suffered vocational loss and the loss of enjoyment in life related to the sexual assault, the loss of trust she has endured and the physical symptoms she exhibits as a result.

121. Jane Doe has required medical and psychological care and will require life-long therapy and care, including prescription medications, vocational assistance, in-patient treatment, and extended institutional foster care to cope with her injuries.

PRAYER FOR RELIEF AND REQUEST FOR JURY TRIAL

WHEREFORE, Plaintiff requests:

1. Judgment for compensatory damages, including damages for physical suffering, humiliation, anxiety, loss of enjoyment of life, vocational loss, loss of trust and permanent emotional damage against defendants Reyes and Woolverton;

2. Judgment for compensatory damages, including damages for physical suffering, humiliation, anxiety, loss and enjoyment of life, vocational loss, loss of trust and permanent emotional damage against defendant NEMHC;

3. Judgment for compensatory damages, including damages for physical suffering, humiliation, anxiety, loss and enjoyment of life, vocational loss, loss of trust and permanent emotional damage against defendants Steve Schuman and Stephanie Schuman;

4. Judgment for compensatory damages, including damages for physical suffering, humiliation, anxiety, loss and enjoyment of life, vocational loss, loss of trust and permanent emotional damage against defendant Philip Murray;

5. Such other and further relief as the Court deems equitable under the circumstances.

PLAINTIFF REQUESTS A TRIAL BY JURY UPON ALL THE ISSUES.

Dated this 14 day of March, 2010.

JOHNSON EKLUND LAW OFFICE


_____/s Stephanie E. Poehop_____

Stephanie E. Poehop

P.O. Box 149

Gregory, SD 57533

johnson@gwtc.net

Attorney for Plaintiff

⑤

PROGRESS NOTE

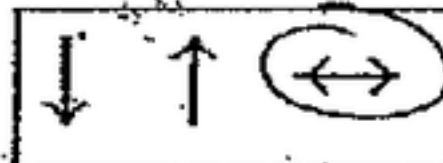
Client: K. [redacted]
 Type of Services: Family Therapy

Date: 11-14-11
 Length of Session: 60 min

Goals Addressed

A11

Progress Status



GOOD AVERAGE POOR

Appearance: ✓
 Judgment: ✓
 Insight: ✓

Affect/Mood		
<u>Appropriate</u>	<u>Flat</u>	<u>Ambivalent</u>
<u>Sad/Depressed</u>	<u>Labile</u>	<u>Blunted</u>
<u>Happy</u>	<u>Manic</u>	<u>Euphoric</u>
<u>Anxious</u>	<u>Hypomanic</u>	<u>Apathetic</u>
<u>Angry</u>	<u>Inappropriate to Thought</u>	<u>Neutral</u>
<u>Fearful</u>	<u>✓ upset</u>	

Thought Process		
<u>✓ Appropriate</u>	<u>Hallucinations</u>	<u>Disorientation</u>
<u>Slowed</u>	<u>Visual</u>	<u>Time</u>
<u>Concrete</u>	<u>Tactile</u>	<u>Place</u>
<u>Rigid</u>	<u>Auditory</u>	<u>Person</u>
<u>Ruminative/Fixed</u>	<u>Olfactory</u>	<u>Confusion</u>
<u>Inappropriate</u>	<u>Gustatory</u>	<u>Poor Memory</u>
<u>Guilt</u>	<u>Delusions</u>	<u>Long Term</u>
<u>Poor</u>	<u>Ideas of</u>	<u>Short Term</u>
<u>Concentration</u>	<u>Reference</u>	<u>Loose Association</u>
	<u>Obsessions</u>	<u>Perpetual Distortions</u>
		<u>Phobias</u>

Behavior		
<u>✓ Appropriate</u>	<u>Hypertensive</u>	<u>Suspicious</u>
<u>Distractible</u>	<u>Hypotensive</u>	<u>Compulsive</u>
<u>Dominating</u>	<u>Reactive</u>	<u>Uncommunicative</u>
<u>Agitated</u>	<u>Withdrawn</u>	<u>Seductive</u>
<u>Rapid Speech</u>	<u>Impulsive</u>	<u>Confused</u>
<u>Aggressive</u>	<u>Submissive</u>	<u>Self-defeating</u>
<u>Passive</u>	<u>Short Attention Span</u>	<u>Influenced by</u>
<u>Restless</u>	<u>Attention Seeking</u>	<u>Psychotic Process</u>

ments: [redacted] & [redacted] were picked up by the police at school & brought to the SA's office. They were interviewed & video taped alone. [redacted] was worried that she was in trouble or that she did something wrong. [redacted] states they asked her why she switched from Ellen as her therapist to Franne; they asked questions about R. [redacted], Jan, Brandon, Shirley, Kari, & me - she states she was getting confused. She states they asked her lots of questions about W. [redacted] if she had told the truth about R. [redacted]

examist: Sippel, EdD

4

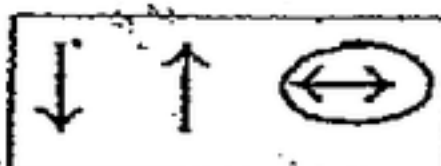
PROGRESS NOTE

Client: Me
Type of Service: Family Therapy

Date: 11-4-11
Length of Session: 60 min

Goals Addressed
All

Progress Status



GOOD AVERAGE POOR

Appearance: ✓
Judgment: ✓
Insight: ✓

Affect/Mood		
<u>Appropriate</u>	<u>Flat</u>	<u>Ambivalent</u>
<u>Sad/Depressed</u>	<u>Labile</u>	<u>Limited</u>
<u>Happy</u>	<u>Manic</u>	<u>Euphoric</u>
<u>Anxious</u>	<u>Hypomanic</u>	<u>Apathetic</u>
<u>Angry</u>	<u>Inappropriate to Thought</u>	<u>Neutral</u>
<u>Fearful</u>	<u>* upset</u>	

Thought Process		
<u>✓ Appropriate</u>	<u>Hallucinations</u>	<u>Disorientation</u>
<u>Slowed</u>	<u>Visual</u>	<u>Time</u>
<u>Concrete</u>	<u>Tactile</u>	<u>Place</u>
<u>Rigid</u>	<u>Auditory</u>	<u>Person</u>
<u>Ruminative/Fixed</u>	<u>Olfactory</u>	<u>Confusion</u>
<u>Inappropriate</u>	<u>Gustatory</u>	<u>Poor Memory</u>
<u>Guilt</u>	<u>Delusions</u>	<u>Long Term</u>
<u>Poor</u>	<u>Ideas of</u>	<u>Short Term</u>
<u>Concentration</u>	<u>Reference</u>	<u>Loose Association</u>
	<u>Obsessions</u>	<u>Perpetual Distortions</u>
		<u>Phobias</u>

Behavior		
<u>✓ Appropriate</u>	<u>Hypertensive</u>	<u>Suspicious</u>
<u>Distractible</u>	<u>Hypotensive</u>	<u>Compulsions</u>
<u>Dominating</u>	<u>Resistant</u>	<u>Uncommunicative</u>
<u>Agitated</u>	<u>Withdrawn</u>	<u>Sedative</u>
<u>Rapid Speech</u>	<u>Impulsive</u>	<u>Confused</u>
<u>Aggressive</u>	<u>Submissive</u>	<u>Self-defeating</u>
<u>Passive</u>	<u>Short Attention Span</u>	<u>Influenced by</u>
<u>Restless</u>	<u>Attention Seeking</u>	<u>Psychotic Process</u>

ments: The girls were picked up from school by the police and taken to the State's Atty's office. They were interviewed & video taped alone. [redacted] states that she said she wanted her attorney. They asked who that was & she said Brandon. She reports that they said Brandon said it was okay for her to talk with them. She said they asked her questions about Brandon, Kari, Shirley, & me. They asked her if I pressured her to talk. She reports that if anyone pressured her to talk it was Mr. J. (last foster home) & she told them this.

examist

Sippel, EdD

FORENSIC TRANSCRIPT

Re:

Transcription of Enhanced Audio

Taliaferro file VTS_01_2.VOB

July 20 2012

Prepared by

Arlo E. West

Creative Forensic Services5 Jeannette Avenue
Lewiston, Maine 04240CREATIVE FORENSIC SERVICES
1-207-784-0257**EXHIBIT**2

1 We are going to say that Shirley is fucking [Inaudible]
2 The guys going down [Inaudible]
3 I was really nervous.
4 You think your [Inaudible]
5 Yes sir.
6 She's possibly in on this with him [inaudible]
7 This [inaudible] for you to understand.
8 I understand what I said.
9 Yea. But you don't understand [inaudible]
10 [inaudible] when I said that she [inaudible]
11 Forget it.
12 Won't be longer now because [inaudible] deep shit.
13 Oh. But I wont.
14 I have so much to lose.
15 Yea. They got both in front of me.
16 All I know is I can't lose that much.
17 Well I, stick with me I [inaudible]
18 I know you don't.
19 I left my caller I.D. with her. Called [inaudible] said if she
20 calls back [inaudible].
21 I would have called my self [inaudible]
22 But I guess she called down there and [inaudible]
23 [inaudible] said.
24 Sure doesn't sit right [inaudible]
25 You guys want to say he was involved with anything?

1 That's our theory.
2 Anyone who needs to know about it knows about it. You know
3 [inaudible].
4 If they don't say anything.
5 This is the sixty four thousand dollar question.
6 You think?
7 Yea.
8 Do we have enough number one, for a fucking protection order.
9 Two we need ignorance on the part of Shirley Schwab
10 [inaudible].
11 And three do we have authority?
12 She don't want them to [inaudible]
13 Both kids against Fran, Brandon, Shirley and Kari?
14 And I can't really work with you on [inaudible]
15 Well that's what I'm saying it was after that. So I could visit
16 the home at least.
17 We wished we had [inaudible].
18 What I'm saying [inaudible] Shirley and a number of those girls
19 have been fucking with us.
20 And you, and you were right.
21 Would you really know if she [inaudible]?
22 Even though if it was a lie, they can't let anybody talk about
23 it. You've got the opportunity to [inaudible]
24 The state of [inaudible] Dakota and it's attorney's.
25 But it's attorney's had every opportunity [inaudible]

1 responsibility.
2 You see what I'm saying?
3 Because they are going to be poking on the girls. They'll
4 probably want a felony count.
5 Now we have the authority to get Fran.
6 [inaudible]
7 That's why we push that and we both have to say this.
8 [inaudible] attorney [inaudible].
9 [inaudible] investigate [inaudible] I didn't have the first
10 clue.
11 Then it's [inaudible]
12 When I start, When I started digging into that.
13 She can't. She said that [inaudible]
14 I told her. I said I accidentally [inaudible] because
15 [inaudible] came over [inaudible] go to jail.
16 [inaudible] saw people there that [inaudible]
17 When she says it happened right?
18 I heard her say it doesn't happen.
19 She said Fran told her [inaudible] her house [inaudible].
20 She didn't say anything about what you said?
21 Basically she pushed her to say things that weren't true?
22 Fuck that.
23 The jury doesn't need to hear that. [inaudible]
24 [inaudible]
25 [inaudible]

1 According to the lawyer.
2 We have to go back and ask her that [inaudible]
3 Not unless were saying [inaudible]
4 We'll ask her [inaudible] conspiracy?
5 Well, actually it's all we have. Right?
6 We can still fucking shut it down. You see what I'm saying?
7 Because, I have to agree with [inaudible] on this one.
8 If she's.. If she's made statements. Fucking Fran made her make
9 statements that weren't true about that it makes no difference
10 about that.
11 You heard the girl [inaudible] therapy [inaudible]
12 Well, I'm going to regret if they are not going to agree with
13 this [inaudible].
14 I doubt that [inaudible]
15 But yea, we got that. At least, at least we fuck with Brandon.
16 And I guarantee we put Fran Sippel in here. Put the fucking hot
17 screws in her. Bitch you better start talking. Your in deep
18 shit.
19 She said why don't you [inaudible]
20 She goddamn well knows she's got a business [inaudible].
21 Shirley and Brandon aint going to talk about it. Even if
22 [inaudible]
23 Well, she don't know.
24 Does she know?
25 [inaudible]. I didn't know Fran Sippel. But what I know about

1 Shirley and Brandon they are screwed.
2 Could be.
3 [inaudible] that a possibility Shirley never said that?
4 [inaudible] after you get [inaudible].
5 Fucking incredible group home.
6 You don't fuck with the states attorney. What ever you do.
7 [inaudible]
8 We got to get out of this shit over here. That's what we got to
9 do.
10 I [inaudible] that.
11 It gets really expensive for the department of social services.
12 [clearing throat]
13 Good Morning [inaudible].
14 You guys aren't [inaudible].
15 Either that or [inaudible] the lawyer.
16 [inaudible]
17
18
19
20
21
22
23
24
25

Forensic Expert Qualifications
ARLO E. WEST,
AES, ACFE, PPSC, NYIFA

CERTIFIED FORENSIC AUDIO and VIDEO EXPERT

President and CEO Creative Forensic Services, INC.

MEMBERSHIP

Member of A.E.S. ~ Audio Engineering Society, International

Member of A.C.F.E.I. ~ American College of Forensic Examiners International

Staff Member of P.P.S.C. ~ Police Policy Studies Counsel

CERTIFICATION

N.Y.I.F.A. ~ New York Institute of Forensic Audio, Certified in Enhancement, Authentication of both Audio and Video.

Qualified as an expert in several states including ME, MT, IA, MA, NH.

CASE EXAMPLE

WILLIAM JORGENSEN v. STATE OF MONTANA (No. DV 07-185A)

UNITED STATES v. DANIEL POULIN (No. CR-08-50-B-W)

VALDA T JOHNSON v. DAVID HOLWAY (No. 03-2513 (ESH)

STATE OF MAINE v. DANIEL ROBERTS (No. And-07-455)

STATE OF IOWA v. ROSCHELL LLOYD (No. #21260)

STATE OF IDAHO v. SARAH JOHNSON (No. 33312)

UNITED STATES v. RICARDO CORDOBA-RAMIREZ (No. 03-10034)

STATE OF MAINE v. DANA RICHARDSON (No. CR-06-440)

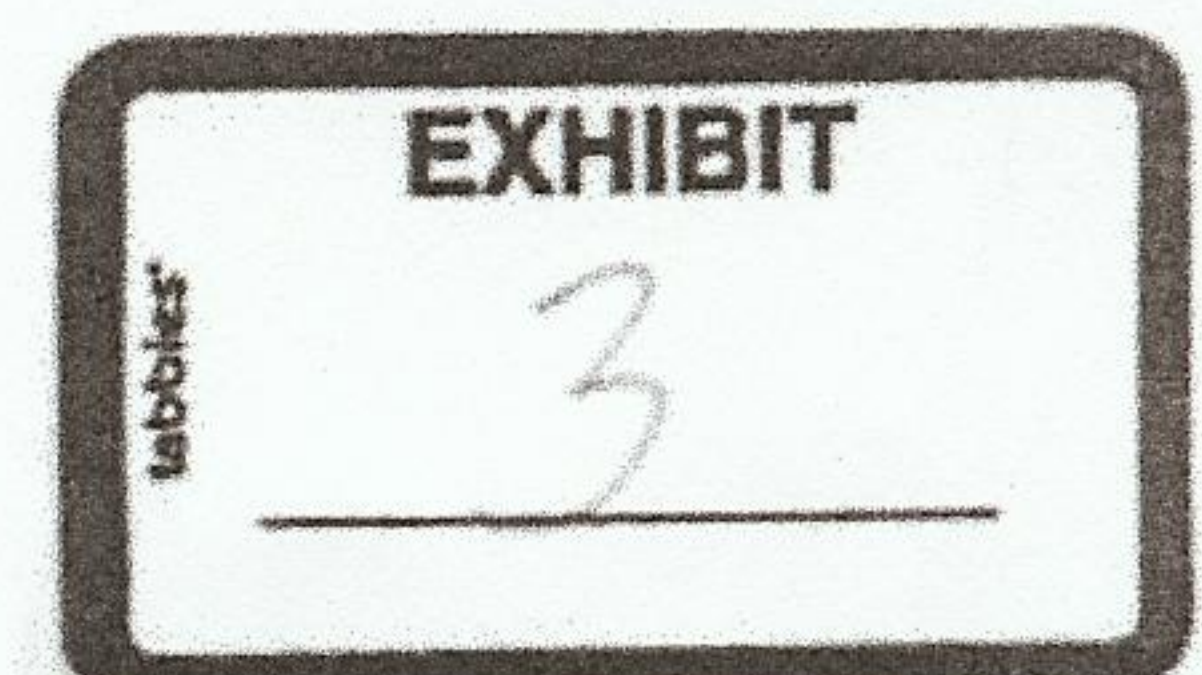
STATE OF MAINE v. SARAH ALLEN (And-05-202)

STATE OF W. VIRGINIA v. ORLANDO DAILEY (No. 06-4052)

STATE OF CALIFORNIA v. SHERI NOLAN (No. CC 789691)

EMPLOYMENT

2000 - 2010 Creative Forensic Services; Owner and President, Certified Forensic Audio Expert.



1999 - 2002 Elmwood Studios; Studio manager and Chief Engineer.

1987 - 1998 Dallas Sound Lab; Professional Audio Engineer and Forensic Audio Expert.

ENGINEERING AND PRODUCTION

Assistant Engineer, Digital Audio Editing for Grammy award winning rock group "U2."

Assistant Engineer, Audio Dialogue Replacement for the Oscar award winning motion picture "Titanic."

Audio Engineer, Live I.S.D.N. feed for NFL commentator "Pat Somerall" during halftime commentary.

Assistant Audio Engineer for the Tony Melendez CD "Hands in Heaven."

Assistant Engineer, Audio Dialogue Replacement, Universal Pictures, TBS, Warner Brothers, for the motion pictures "Leave It to Beaver", "Rough Riders", "Tarzan and the Lost City".

Audio Engineer, Foley Assistant, PBS, "Wishbone" and "Barney" children's programs.

Software Development, Audio Engineer, Dave Faherty from CBS golf, for Microsoft Corporation.

Audio Engineer, Forensic Audio Analyst, Digital Audio Engineer.

Assistant Engineer, Mary Kay Corporation, Dallas Texas).

1986-2002 Composer, Midi Engineer, Producer, Dallas Sound Lab in Irving, Texas)

1974-2002 (Internationally known musician and band leader, Arlo West Band.

CFS Press releases, (US) Johnson murder trial story from L/A Sun Journal Sound on Sound magazine (UK) L/A Sun Journal (USA)

Proficient Computer Skills in (Macintosh and Windows, Multiple Audio Platforms, Web Authoring, Graphic Design and Layout, Flash, Networking, Computer Design and Maintenance)

Musical Instrument Digital Interface, MIDI Composer and engineer.

Accomplished Guitarist, Internationally respected Blues Musician and Songwriter.

1 under Section H, The children have since stated to this Affiant
2 that many of the disclosures made to Fran were not true. Do you
3 recall that?

4 A. I do.

5 Q. That really wasn't accurate, was it?

6 A. The affidavit was prepared by State's Attorney Dorsett,
7 I reviewed it and signed it.

8 Q. You read it, you signed it under oath, and it was
9 notarized.

10 A. Yep.

11 Q. And it says in here, The children have since stated to
12 this Affiant that many of the disclosures made to Fran were not
13 true. But that statement is not accurate, is it?

14 A. It's accurate in that [REDACTED] Mette told me she made
15 statements about her father that were not true, meaning plural.

16 Q. But none of the other kids did.

17 A. No.

18 Q. So to say plural really isn't accurate.

19 A. With respect to [REDACTED] Mette, it is.

20 Q. And it had nothing to do with the statements that were
21 made regarding Wendy Mette.

22 A. No.

23 Q. You were asked questions by Mr. Butler about a
24 conversation that you had with Agent Lunzman following the
25 interviews of the children. And one of the things that you said

1 was, It gets really expensive for the Department of Social
2 Services. Do you recall saying that?

3 A. My conversation wasn't with Agent Lunzman, but --

4 Q. Who was it with?

5 A. It was Deputy Ross Erickson.

6 Q. Okay. So that's what you said to him?

7 A. I may have. That tape is partial and hard to hear.

8 You guys have asked me before about statements that I made that I
9 clearly didn't make on that tape. So I don't know if I said that
10 or if Ross said that.

11 Q. Why on earth, during a criminal investigation of my
12 client, would anybody, during that time, be talking about what --
13 something being expensive for the Department of Social Services?
14 Do you know why?

15 A. Yes, because there was a pending lawsuit against the
16 State and Social Services.

17 Q. Related to the abuse suffered by the Mette children?

18 A. Related to them, I believe. I don't know for a fact,
19 but I believe the lawsuit was with reference to them being
20 adopted into that home.

21 Q. And that the Department of Social Services had failed
22 to protect these children.

23 A. Correct.

24 Q. So during the context of a criminal investigation of my
25 client you were discussing how much it was going to cost the

1 State because of the abuse that had happened to these children
2 because of the placement by the Department.

3 A. If that was accurate, that's how the discussion was
4 phrased.

5 Q. I saw an email that you ended up sending, I think,
6 shortly after this investigation began where you're referencing
7 that you didn't like the fact that Shirley was advising the
8 childrens' adoptive parents, that they should have attorneys. Do
9 you recall that?

10 A. No.

11 Q. You don't? When you guys interviewed those children,
12 isn't it true that Kari Bartling was highly upset?

13 A. Yes, she was.

14 Q. She was actually pounding on the door to try to get in
15 during your interview.

16 A. I don't remember if she was pounding on the door, but
17 she was highly upset, yes.

18 Q. She was there.

19 A. She was in the State's Attorney's Office and we were
20 downstairs.

21 Q. And she went downstairs.

22 A. Yes, she came downstairs.

23 Q. And knocked on the door?

24 A. She was allowed downstairs and we spoke with her, yes.

25 Q. But you did not allow her to be present with those

1 children when you were interviewing them, did you?

2 A. I believe we were pretty much done. We were just
3 finishing up with them when she came down.

4 Q. She'd already given explicit instructions to the social
5 workers on this case that nobody is to have a conversation with
6 my clients unless I'm present, hadn't she?

7 A. Correct.

8 Q. And she told you that.

9 A. She did.

10 Q. But instead, you had gotten permission from the DSS,
11 the social workers, to take these children out of school and talk
12 to them outside of her presence, didn't you?

13 A. Yes, I did.

14 MS. AMIOTTE: I have no other questions of this witness,
15 Your Honor.

16 THE COURT: Mr. Moore, any redirect?

17 MR. MOORE: Yes, Your Honor.

18 REDIRECT EXAMINATION

19 BY MR. MOORE:

20 Q. Agent Black, I just want to start out, you were asked
21 questions regarding interviews conducted of Wendy Mette when this
22 case started, which you weren't involved in; is that right.

23 A. Correct.

24 Q. And I think your recollection, without showing you
25 anything, was that you don't recall that there was an interview?

1 A. With Wendy Mette?

2 Q. Yes.

3 A. Yes, sir.

4 Q. If I showed you an interview completed of her by
5 agent -- or excuse me, by Detective Jondahl, would that refresh
6 your recollection?

7 A. Yes, sir.

8 Q. Will you review this and tell me when you're done.

9 A. Yes, sir.

10 Q. Does that refresh your recollection?

11 A. Yes, sir.

12 Q. Was Wendy Mette interviewed during this investigation?

13 A. Yes, sir.

14 Q. Based on your review of the record of the interview,
15 did she answer all the questions that were asked?

16 MR. BUTLER: Objection. That's hearsay.

17 THE COURT: Well, you're not into content yet, Mr. Butler,
18 but he can answer yes or no of questions were answered. But any
19 further, you're into content, Mr. Moore, and it is hearsay and it
20 will be sustained. So he can answer, Were the questions
21 answered?

22 A. Yes, she did.

23 Q. Also during your questioning by Ms. Amiotte she was
24 asking you about a 2007 incident where there was a referral and
25 an investigation done in the Mette home.

1 A. Yes, sir.

2 Q. And you indicated that you had reviewed that report.

3 A. Yes, sir.

4 Q. And she implied -- or specifically said that [REDACTED]
5 made some type of disclosure during that investigation.

6 A. Yes, sir.

7 Q. When is the last time you reviewed that investigation?

8 A. January, probably. Six months ago, sometime last
9 summer.

10 Q. Do you specifically recall what [REDACTED] said during
11 that incident?

12 A. Not specifically, no.

13 Q. If I showed you the report, would that refresh your
14 recollection?

15 A. Yes, sir.

16 Q. By reviewing that, does that now refresh your
17 recollection?

18 A. Yes, sir.

19 Q. During this 2007 investigation did [REDACTED] make any
20 disclosure?

21 A. Not about sexual abuse, no, sir.

22 Q. And Ms. Amiotte asked you about that 2007 incident
23 where [REDACTED] made some kind of a statement that her mom said
24 something to her before she went to be interviewed. Do you
25 recall that question?

1 A. I do.

2 Q. And you answered that, for some reason, you knew that
3 they weren't in the same location.

4 A. Correct.

5 Q. You didn't recall how that -- or how you knew that.

6 A. Correct.

7 Q. If I showed you the page of that referral that has that
8 information, would that refresh your recollection?

9 A. Yes, sir.

10 Q. Has that refreshed your recollection?

11 A. Yes, sir.

12 Q. So how do you know they weren't in the same location?

13 A. From notes from Detective Tarnowski's file from that
14 time frame.

15 Q. Ms. Amiotte entered Defendant's Exhibit 208, which was
16 a memorandum or a brief, or whatever you were referring to it as,
17 that Brandon Taliaferro wrote but you had testified that -- at
18 the grand jury that Shirley Schwab wrote.

19 A. Correct.

20 Q. And now you know that was inaccurate.

21 A. Yes, sir.

22 Q. Since it's in evidence on this, what Mr. Taliaferro
23 wrote back in early November, can you read the last line of what
24 he said about [REDACTED]?

25 A. [REDACTED] Mette, age 15, was presently interviewed twice.

1 Once she made disclosures of physical abuse and the second she
2 made horrible disclosures of sexual abuse by Dad that occurred
3 over at least a four year period. I have the report from Child's
4 Voice but not the video yet or the police reports. She is very
5 credible and her disclosures were very hard to stomach.

6 Q. So Mr. Taliaferro, in early November, refers to [REDACTED]
7 as very credible in her Child's Voice interview in October.

8 A. Yes, sir.

9 Q. That's the same Child's Voice interview where she
10 disclosed that Mom knew nothing, Mom wasn't around when this was
11 happening.

12 A. Correct.

13 Q. And with [REDACTED] Mette, just the last line under
14 [REDACTED], can you read the last line to the jury?

15 A. I believe she's been sexually abused, and hopefully she
16 feels comfortable enough in counseling to disclose.

17 Q. And on the second page, the -- just the title in the
18 first line of what he writes about Mom?

19 A. First paragraph?

20 Q. No, under the title and the first line or the first
21 sentence.

22 A. The title is, Mom is complacent, I just have to prove
23 it. Mom claims she had no idea this was going on. Bullshit.
24 [REDACTED] was being molested every time she was alone with Dad
25 between the ages of 8 and 12.

1 Q. Now during your questioning by Mr. Butler he asked you,
2 Did the State's Attorney's Office use the counseling notes in
3 their prosecution of the case, or something to that effect. Do
4 you recall that question?

5 A. Yes, sir.

6 Q. And you answered yes.

7 A. Yes, I did.

8 Q. And just to be specific, you're referring to the Brown
9 County State's Attorney's Office?

10 A. Yes, sir, I am.

11 Q. And when that case was no longer theirs, were those
12 statements that were made in counseling being used in the
13 prosecution?

14 A. No, sir, not to my knowledge.

15 Q. And I was actually doing that case, you and I had
16 conversations about that?

17 A. Yes, we did.

18 THE COURT: Mr. Moore, unless you want to be a witness,
19 don't ask that question again. You're going to talk about
20 private conversations, they may not be disclosed. You may not be
21 the prosecutor.

22 So the jury is going to disregard that question and
23 answer. And you can't -- reason is you can't be interviewing and
24 getting information and be a prosecutor, otherwise you make
25 yourself a witness and that's improper.

1 Q. (BY MR. MOORE) When you testified at the March 13, 2012
2 hearing in the Richard Mette criminal prosecution, do you recall
3 if you were aware that -- that the only charges remaining were
4 the charges based on the Child's Voice interview?

5 A. I believe so, by March 13. Or are you talking about
6 with respect to the charges -- I'm sorry. I'm a little confused.
7 Are you talking about the disclosures not being used in the
8 prosecution anymore?

9 Q. Yes.

10 A. Yes.

11 THE COURT: Anybody have the March 9 email out there?

12 MR. MOORE: Here it is. Sorry. I think it's 150.

13 THE COURT: Here's 150.

14 MR. MOORE: I'll take that. Thank you.

15 Q. I just want to clarify one more thing that Mr. Butler
16 was asking you about. He had put in that March 8 email from
17 Schwab to him and to Sippel saying those disclosures that
18 allegedly came from [REDACTED] that [REDACTED] had been making, you
19 remember that?

20 A. Yes, sir, I do.

21 Q. And then Mr. Taliaferro wrote his March 9, 2011 email
22 to Sippel explaining what he needed for his prosecution.

23 A. Correct.

24 Q. And then the counseling record came out later that day.

25 A. Yes, sir.

1 Q. And I believe he asked you, He didn't get any more than
2 just the watching. And I think you said, Correct. But I want
3 you to read the State's -- or Exhibit 3 and --

4 A. Yes, sir.

5 Q. Is there more in there than just watching?

6 A. Yes, sir.

7 Q. And according to his email, he needed something in
8 furtherance, more than just presence. Is that included in the
9 counseling note?

10 A. Yes, sir, it is.

11 Q. And what would that have been?

12 A. Would you like me to read the statement?

13 Q. Yes.

14 A. Wendy walked in when Rich and [REDACTED] were having sex,
15 just stood there. Wendy gave her, [REDACTED], vitamins for a year and
16 took her to the doctor a year later for birth control. She was
17 12 and they did a pelvic. Wendy told Dawn Deal-Dahle that [REDACTED]
18 was sexually active. Dawn gave her pills that looked just like
19 the victims.

20 MR. MOORE: I have no further questions.

21 THE COURT: Mr. Butler?

22 MR. BUTLER: Thank you.

23 THE COURT: What did you do with that exhibit?

24 MR. MOORE: I put them back up there.

25 THE COURT: You missed the pile.

1 MR. MOORE: Sorry.

2 THE COURT: I have some order up here. Mr. Butler, go
3 ahead.

4 MR. BUTLER: Thanks, Judge.

5 FURTHER CROSS-EXAMINATION

6 BY MR. BUTLER:

7 Q. Agent Black, Mr. Moore said that after he took over the
8 case from Brown County and he no longer relied upon anything
9 other than the initial forensic interview to prosecute his case,
10 you recall that question?

11 A. Yes, sir, I do.

12 Q. Why does that matter to anybody in this courtroom?

13 A. Well, it seems to me we're retrying the Richard Mette
14 case and Richard Mette was convicted on the sexual assault and it
15 was without the aid of those counseling notes.

16 Q. Earlier you testified that you had essentially felt
17 that Detective Jondahl of the Aberdeen Police Department didn't
18 fulfill your expectations of investigating inconsistencies, and
19 now we're hearing that the Brown County State's Attorney's Office
20 was relying on unreliable information. Basically, what, you're
21 throwing all these people under the bus? Is that the point of
22 your answers?

23 A. Not at all.

24 Q. Seems to me that there was some well-intentioned people
25 here trying to investigate some very serious allegations.

1 A. I agree. I think they stepped over the line with their
2 intentions.

3 Q. Well, of course I know you do. You've said that a
4 couple of times, and that wasn't even my question. You don't
5 know whether Mom ever walked in or not, do you, for a fact?

6 A. For a fact, no.

7 Q. No. You don't know for a fact if Dad vaginally raped
8 [REDACTED], do you?

9 A. I guess I can't answer that. I wasn't at his
10 sentencing. I don't know what he agreed to.

11 Q. How would being at the sentencing cleared it up?

12 A. If he admitted to it at sentencing that would
13 definitely clear it up.

14 Q. Did he admit to it?

15 A. I don't know. I was not there.

16 Q. Did you investigate if he admitted to it?

17 A. No, I did not.

18 Q. Did you look at his psychosexual evaluation by any
19 chance?

20 A. No, I did not.

21 Q. If you had, you might have learned he's just pretty
22 much denying everything. Does that surprise you?

23 A. Richard Mette was not my focus.

24 Q. I'll bet. What did [REDACTED] lie about with regard to
25 her father?

1 A. I don't know.

2 Q. She said Dad made her give her (sic) multiple blow jobs
3 over the years. Was she lying?

4 A. I don't know.

5 Q. The other girls were sexually abused, as well. Were
6 they lying?

7 A. I do not know.

8 Q. They said they told their mom. She didn't do anything
9 about it. Were they lying?

10 A. I don't know.

11 Q. It's not always easy to tell, is it?

12 A. No.

13 Q. And you're not holding yourself out here today as some
14 ultimate lie detector, are you?

15 A. Absolutely not.

16 Q. Of course not, anymore so than any of the other people
17 in this case. There is no absolute certainty when children are
18 involved, or for that matter, when adults are involved and make
19 accusations, are there?

20 A. Are you saying when there is no physical evidence in
21 the case?

22 Q. No physical evidence and no other witnesses.

23 A. You have to go on what they tell you.

24 Q. When did [REDACTED] Mette disclose that in 2007 she in
25 fact did tell her mother what Dad was doing? Do you know when

1 [REDACTED] first disclosed that?

2 A. I do not. I want to say January, but I don't recall
3 for sure.

4 Q. January of 2011?

5 A. It's what comes to mind, but I'm not a hundred percent
6 certain of that.

7 Q. We told Mom after DSS left. I told her he was tickling
8 and touching my chest. She said to be quiet about it. I didn't
9 want Dad to have to leave. Did you review those notes?

10 A. I did.

11 Q. Would it surprise you at all that a child would not
12 necessarily want to accuse her mother of -- let's say this, would
13 it surprise you at all that a child would keep their mouth shut
14 back in 2007 when Mom told them to?

15 A. No.

16 Q. By the time that [REDACTED] said she told Mom, she wasn't
17 living with Mom anymore, was she?

18 A. No.

19 Q. She might have felt a little safer at that point in
20 time.

21 A. Possible.

22 Q. With regard to the 2007 report, all the Mette people
23 were interviewed on the same day; is that correct? August 3,
24 2007?

25 A. I believe so.

1 Q. I was trying to understand in your colloquy here with
2 Mr. Moore, why it is important that they weren't all in the same
3 location when they were interviewed? What is the significance of
4 that?

5 A. The allegation that [REDACTED]'s mother told her, as she's
6 walking out the door with the police officer, not to say
7 anything. Obviously he would take into question the accuracy of
8 that statement if they're not in the same location.

9 Q. Where did that come from?

10 A. I don't recall where that came from.

11 Q. When she disclosed it to Ms. Sippel she didn't say
12 anything about Mom walking out -- as Mom's walking out the door
13 she said, Keep your mouth shut, or something, did she?

14 A. I don't recall, sir.

15 Q. Would it help if you looked at those notes?

16 A. I would have to review all of them. I don't recall
17 where I heard that from.

18 Q. Something somebody told you?

19 A. I don't recall. I know there was the discussion of
20 that allegation. I remember discussing it with Agent Lunzman. I
21 don't recall where we gained that information.

22 Q. Discussing it with who?

23 A. Agent Lunzman.

24 Q. He wasn't involved in that investigation in 2007, was
25 he?

1 A. I have no idea. I don't believe so.

2 Q. Well, Officer Tarnowski from the Aberdeen Police
3 Department was one of the people involved. Did you speak to him?

4 A. I believe I spoke to him briefly about this case.

5 Q. Did you make a report about that conversation?

6 A. No.

7 Q. Now you made a reference when you were asked about a
8 comment about -- and this is in November, you've interviewed the
9 girls, and on this tape that's still running you make a comment
10 about, This is going to cost DSS a lot of money.

11 A. Uh-huh.

12 Q. And you think that may have been regarding a lawsuit
13 being brought against the Department of Social Services on behalf
14 of the Mette children; is that right?

15 A. Yes.

16 Q. Were you aware then that a guardian ad litem had been
17 appointed to these children to investigate the possibility that
18 the Department of Social Services had been negligent by leaving
19 them in the home with a child molester?

20 A. Yes.

21 Q. And that guardian ad litem was an attorney by the name
22 of Scott Heidepriem out of Sioux Falls?

23 A. Correct.

24 Q. And he made findings that the Department should get
25 sued, didn't he?

1 A. I did not know about that until later on. I know he
2 was investigating.

3 Q. And DSS had been sued not long before that for a
4 similar problem; is that right?

5 A. I have idea.

6 Q. You don't know about that lawsuit?

7 A. No.

8 Q. You weren't aware that that was part of the reason they
9 were kicked off the Mette case because of conflict of interest?

10 A. At that point, when that conversation occurred, I had
11 no idea why they were removed.

12 Q. Did you consider the possibility that the Department of
13 Social Services might have a motive to downplay the seriousness
14 of the 2007 incident, as well as the allegation brought by these
15 Mette children now, to avoid getting sued or costing them a lot
16 of money?

17 A. No.

18 Q. And with regard to -- again, back to 2007, which is
19 prior to my client even working at the State's Attorney's Office
20 here, before Fran Sippel was ever their therapist, there was
21 allegations that [REDACTED], and then [REDACTED] -- which told Fran --
22 were telling their mom what was going on; isn't that correct?

23 A. I don't know. I don't understand the question. Can
24 you restate it?

25 Q. The 2007 report made by Tarnowski does state, I asked

1 [REDACTED] if she ever told anyone about Dad touching her chest.
2 She said she told her mom and her sister Kelly. [REDACTED] told me
3 she told Kelly that when she's riding on her dad's wheelchair
4 he'll start rubbing her stomach and will go up. Do you remember
5 reading about that?

6 A. Yes, I do.

7 Q. Did you determine whether [REDACTED] just made that up?

8 A. I did not interview [REDACTED].

9 Q. Show you what's marked as Defense 307, see if you
10 recognize that.

11 A. Yes, sir.

12 Q. What is it?

13 A. Appears to be a note to Fran Sippel from [REDACTED] dated
14 12-16, 2010.

15 Q. Was it obtained from Fran's files?

16 A. Yes.

17 Q. And is it [REDACTED]'s handwriting, writing a note to
18 Fran?

19 A. I couldn't tell you if it's her handwriting or not.

20 Q. What does that note say to Fran?

21 A. Says, I just wanted to tell you that when DSS came a
22 couple years ago my mom asked me what they asked me, so I told
23 her. She asked me what I said back after -- excuse me -- back,
24 and after I told her, she told me never to talk about it, to not
25 tell anyone else. I thought she was protecting my dad more than

1 her on November 4, same day as the children; right?

2 A. Yes, I believe it was that afternoon.

3 Q. Was it you and Lunzman?

4 A. Initially, yes, I believe it was myself and
5 Agent Lunzman.

6 Q. So you were both present at this interview?

7 A. Yes.

8 THE COURT: Where did it take place at, Counsel?

9 MS. AMIOTTE: I believe it was at DCI office; is that right?

10 THE WITNESS: Yes, ma'am.

11 Q. Okay. And in fact, going back to the childrens'
12 interviews, they all took place at your office, didn't they?

13 A. Correct.

14 Q. You or Agent Lunzman picked the children up from school
15 and brought them over?

16 A. We had deputy sheriffs pick them up and bring them.

17 Q. In patrol cars?

18 A. No, we used investigators'.

19 Q. What does that mean?

20 A. Unmarked vehicles.

21 Q. Okay. And their attorney Kari Bartling was not made
22 aware that you were going to be questioning them; right?

23 A. No.

24 Q. She was not notified ahead of time or gave permission?

25 A. No.

1 THE COURT: Can I ask you a question, Agent? It just popped
2 into my mind. How did you get the kids out of school?

3 THE WITNESS: We contacted the administration and then
4 advised them that we needed to do witness interviews with them.
5 We showed our credentials. We contacted the local school
6 resource officers.

7 THE COURT: Who in charge gave permission? I mean, did the
8 foster parents do it or the adoptive parents?

9 THE WITNESS: No, we gained permission from Virgena
10 Wieseler, who is a supervisor with Department of Social Services.

11 THE COURT: She runs DSS?

12 THE WITNESS: I believe she's regional supervisor.

13 THE COURT: I think she's above that.

14 MS. AMIOTTE: She's the director.

15 THE COURT: So that's how you got the kids out the school.
16 Okay. Go ahead, Counsel.

17 MS. AMIOTTE: Thank you, Your Honor.

18 Q. Before we talk about Kari's interview, let's back up a
19 minute. You interviewed [REDACTED] or was it --

20 THE COURT: Can I ask you this -- we all know who we're
21 dealing with. Don't use [REDACTED] It's just really confusing when
22 you're making a record. If you read the documents you submitted
23 to me, I had a tough time. I had to read them about three times
24 to sort the first names out.

25 And like I said, I got a couple people here from the

Kim Dorsett

From: Dan.Todd@state.sd.us
Sent: Thursday, November 10, 2011 11:18 AM
To: Kim Dorsett; Lori.Ehlers@BrownCounty.sd.gov; Mark.Black@state.sd.us; Marty.Jackley@state.sd.us; Charles.McGuigan@state.sd.us
Subject: RE: Mette

To brain storm a minute - it seems we have both both a criminal investigation issue and a child protection issue

- Criminal prosecutor ought to be involved in the criminal investigation issue
 - Sealing documents will preservation investigative process and evidence
 - Additional and/or continued witness tampering may occur without sealing documents
 - No contact with children and foster parents would be most beneficial
- DSS should have some input on the child protection issue
 - Benchmark is insuring best interest of children
 - Influence is emotional not physical
 - Nonetheless harmful but more difficult to convince court
 - Sealing documents will not change influence on children
 - No contact would help but Court has denied that option, at least without a hearing
 - Hearing would defeat the purpose of sealing the documents
 - We could move children to another foster home
 - Moving children also creates emotional/transitional concerns
 - i.e. this is truly a difficult decision

Would an indictment, arrest and conditions of release be helpful?

-----Original Message-----

From: Kim Dorsett [mailto:kdorsett@rwwsh.com]
Sent: Thursday, November 10, 2011 10:24 AM
To: Lori Ehlers (Lori.Ehlers@BrownCounty.sd.gov); Black, Mark; Jackley, Marty; Todd, Dan; McGuigan, Charles
Subject: RE: Mette

I do know Agent Black has tried repeatedly to speak with Ryan and explain what is going on but Ryan refuses to talk with him; no doubt because Brandon and Shirley are trying to protect themselves and convinced him he needs an attorney before he should speak to Agent Black.

From: Kim Dorsett
Sent: Thursday, November 10, 2011 10:19 AM
To: Lori Ehlers (Lori.Ehlers@BrownCounty.sd.gov); Mark.Black@state.sd.us; Marty.Jackley@state.sd.us; Dan.Todd@state.sd.us; Charles.McGuigan@state.sd.us
Subject: FW: Mette

I really think someone from DSS needs to go speak with Ryan. See email below from my child's voice interviewer for the girls.

From: Brazil,Colleen [mailto:Colleen.Brazil@SanfordHealth.org]
Sent: Thursday, November 10, 2011 10:12 AM
To: Kim Dorsett
Cc: Free,Nancy (DO)
Subject: RE: Mette

Kim

I just received a phone call from a man named Ryan who stated he was the foster parent/guardian for some girls. He started telling me his concerns about court that was scheduled on Tuesday and was cancelled. He stated he had concerns about the girls' civil liberties being violated. I interrupted him and asked initially if the children had been to Child's Voice and he stated no. I then asked him the last name of the girls – he said Mette. We told him we could not talk with him about any case and that our referrals had to come from LE or CPS. I did not tell him we had seen the children here. I referred him to the AG's office if he had concerns about the children.

Thought you should know this.

Colleen

From: Kim Dorsett [mailto:kdorsett@rwwsh.com]
Sent: Thursday, November 10, 2011 9:44 AM
To: Brazil,Colleen
Subject: RE: Mette

As of right now it has not and is still set to go as scheduled. However, Mike Moore of Beadle County has taken over that aspect of the case because part of this new investigation conflicted my office out and made us potential witnesses. I am sure his office will be in contact with you and they are getting up to speed. I am still awaiting word from the AG as to my involvement in the A&N side of things although I suspect they will handle that from here on out.

Kim Dorsett

From: Brazil,Colleen [mailto:Colleen.Brazil@SanfordHealth.org]
Sent: Thursday, November 10, 2011 9:38 AM
To: Kim Dorsett
Subject: RE: Mette

Will that affect jury trial also?

From: Kim Dorsett [mailto:kdorsett@rwwsh.com]
Sent: Thursday, November 10, 2011 9:38 AM
To: Brazil,Colleen
Subject: RE: Mette

Colleen, Thank you for your continued interest in this important case. DCI is in the middle of further investigation which has delayed the case slightly. Once a new date is scheduled we will let you know. Thanks again.

Kim Dorsett

Laura Sullivan

From: Kellar, Kristin <Kristin.Kellar@state.sd.us>
Sent: Tuesday, April 16, 2013 4:13 PM
To: Laura Sullivan
Subject: DSS Interview Request

Ms. Sullivan,

Dan Todd forwarded your request for an interview to me. The Department of Social Services will not be offering a comment.

Thank you,

Kristin Kellar | Communications Director
South Dakota Department of Social Services
700 Governors Drive, Pierre, SD 57501
(605) 773-3165 | Kristin.Kellar@state.sd.us



52100 '20'

foot. Jordan stated "you missed" therefore Rich kicked him again and Jordan stated "you got me that time". He was still laughing at this time. Rich went to kick him again and slipped on the ice. At the same time some females around Jordan's age walked out and Jordan got upset telling Rich to knock it off. He stated that Jordan was upset and threw his ball in the car. When leaving the parking lot Jordan asked Rich why he kicked him. Rich tried to explain he was messing around and apologized for making him angry. I asked Rich if Jordan had swung his ball around as if he was going to hit him. Rich stated that he did swing around but did not feel that he swung his ball at all.

When discussing the children being unsupervised Rich stated that he, Wendy, and Kelly left around 8:30 and returned around 10:30. He stated that Kelly did not want the other kids with them because she had to buy bras. And that he and Wendy always go grocery shopping together. He also mentioned that they had gotten a credit card and could "finally afford to go shopping" and this is why they went that night. Rich reported that the younger kids were sleeping when they left and the other three were left with instruction on when to go to bed. He stated that there was a lot to carry in. So upon returning he got Lewis up to help carry things in. Rich stated that he held on to Lewis' arm with one hand and put his other hand behind Lewis' back to help sit him up. He asked Lewis if he was willing to help carry things in from the car. Lewis said he was and went downstairs and put his coat and boots on and helped carry bags in. When done he went straight back to bed. Rich reports that he also tried to wake Jordan up however Jordan would not get up so he left him alone. Rich also mentioned that they had left Kelly to baby-sit the kids one other time while they attended a Christmas Party. He stated that they were gone about an hour.

When discussing the movies Rich first stated that the movies were in he and Wendy's room. However when I informed him where Lewis reported he found the movies Rich said that this very well could have been. He stated that he was not sure but he and Wendy could have watched the movies while sitting on the couch during the time the kids were in Respite care. Rich informed me that he had talked with Lewis about finding the movies and asked him if he ever found another movie to give it to Rich because he wouldn't want the little kids to see them. Rich stated that he was willing to put a lock on the box where he keeps the movies. He also mentioned that he would think about getting rid of them all together.

Rich stated that things in the house have been stressful since the boys moved in and that he and Wendy have been fighting much more lately. He stated that he and Wendy are "on edge all the time." He also made comments such as seven is too much and he is finding himself upset with the boys often. I asked about the "f word" being used. Rich stated that it come from both of them during times they are arguing.

On 2-9-01 I was at the Mette home to pick up Lewis and Jordan Anderson. While waiting for the boys Elyssa came up to me and said "Rich and Wendy spank me all the time." I tried to question her further however she did not give me any further information. I asked Lewis and Jordan about the physical discipline at the Mette's. Both

52100 201 3

reported that neither of them had ever been spanked. However they witnessed Rich and Wendy spank Alyssa, Elyssa, Katrina, and Nicolas. Kari and I attempted to talk with Elyssa on 2/13/01 at the daycare however she would not talk with us. On 2/14/01 Kari talked with Wendy regarding the allegations. Wendy at first denied using physical discipline with the foster children placed in their home. However she then reported that Rich told her of one time he spanked Elyssa. On 2/15/01 I talked with Rich regarding these allegations. He stated that he does not spank the children. However he has "swatted" them on the behind before. Rich reports that he does this to get the children's attention and not to hurt them. He also added that he does not put any force behind the swat. Rich reports that he has "swatted" Elyssa 3 or 4 times since she was placed with the family. He denies using any physical discipline on Alyssa.

On 2/22/01 Kari, Cindy Bertsch, Stacey Nelson, and myself meet with the Mette's at DSS to discuss a plan of action. Rich reported that he was not comfortable with the part, which address no tickling because this is how he plays with the children. He stated that the girls (referring to the DeMarrias') do not ever complain and enjoy playing with Rich in this way.

We discussed the children being left unattended and Rich and Wendy stated that they understood that this was not allowed and would no longer leave the children without supervision.

When discussing the pornographic movies Rich reported that he is in the process of getting rid of the movies so this should be considered a non-issue.

4. CHILD'S PRESENT OR CURRENT LOCATION

The DeMarrias children remain in the Mette's home. Lewis and Jordan have been moved to Bill and Jana Duncan's foster home.

5. ADDITIONAL INFORMATION

6. EVALUATION

The investigation dated 4/20/01 was indicated for lack of supervision and emotional abuse.

7. REMEDIAL ACTION TAKEN

Safety plan was reviewed and signed by Wendy and Rich Mette on 2/22/01.
See attached

152100-201-0
8. LOCAL STATES ATTORNEY

Dawn Aman was notified on 2/2/01.

9. RECOMMENDATIONS AND CORRECTIVE ACTION PLAN

Safety plan was reviewed and signed by Wendy and Rich Mette on 2/22/01.
See attached.

10. SIGNATURE

2/22/01
Date Investigation Completed

Wendy Mette / Rich Mette 4/20/01 / 5-3-01
Social Worker Date

Stacey Nelson 5/3/01
Supervisor Date

Field Program Specialist Date

Distribution: Original to State Office through FPS, copy for local file, copy to Child Care Facility (as directed by State Office), copy to State's Attorney, Tribal Court, and Law Enforcement (as directed by FPS or State Office).

5-29-01
K Mounette
L Aman
E Borge

Request For Services

Part A. Name And Address of Person Needing Services:

Name: Rich and Wendy Mette

DOB: _____

(First, Middle Initial, Last)

Address: 303 5th Ave. SE

(Street or Box Number)

City: AberdeenState: SDZip: 57401Telephone Number: 605-229-5652

Part B. Nature Of Request: (Please Check)

☐

Unmarried Parent

☐

Adoption

☐

Licensing

☐

Title XIX Medical Transportation

☒

Other (Specify) _____

Briefly describe the nature of the request with the necessary details for the service requested and for whom it is requested.

Lewis and Jordan Anderson are in the Mette's foster home. They reported concerns regarding the Mette's to a family friend who in turn reported concerns to me. Lewis and Jordan reported that the Mette's treat them differently then the other foster children in the home and that Rich does a lot of teasing and name calling. The boys also reported that Rich has porn movies in the home.

When these concerns were being addressed with the Mette's they stated that the boys are treated the same as if not better then the girls they have in care. Rich reported that he has had to get on Lewis and Jordan for not following the rules but he does not recall ever yelling at them.

When addressing the concerns regarding the porn movies the Mette's admitted that they do own 3 movies. However they are in a lock box in the back of their bedroom closet. Rich discribed the box as not having the handle. Therefore a screwdriver is needed to open the box. Wendy assured me that there is never a time that they watch the movies when the children are present. Wendy state that although it is highly unlikely the boys could have seen the box sitting on the VCR in the bedroom. They both mentioned that they feel the boys were going through their things and this is how the movies were discovered.

Part C. Signature

Francine Mc Clure

1/29/01

(Name of Person Making Request)

(Date)

(Address and Phone Number if Different From Part A)

Part D.

(Intake Worker - Signature)

(Date)

(Worker Assigned)

(Date)

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF BROWN)

IN CIRCUIT COURT

FIFTH JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA,
 Plaintiff

vs.

SHIRLEY ANN SCHWAB,
FRANCINE SIPPEL,
BRANDON MICHAEL TALIAFERRO,
 Defendants.

Cr.

WARRANT OF ARREST

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE:

An Indictment upon oath having been this date laid before me that the crimes of COUNT I – WITNESS TAMPERING (SDCL 22-11-19(2)); COUNT II - WITNESS TAMPERING (SDCL 22-11-19(1)); COUNT III – SUBORNATION OF PERJURY (SDCL 22-29-6); have been committed and accusing SHIRLEY ANN SCHWAB, FRANCINE SIPPEL, and BRANDON MICHAEL TALIAFERRO thereof;

You are therefore commanded forthwith to arrest the above named SHIRLEY ANN SCHWAB, FRANCINE SIPPEL, and BRANDON MICHAEL TALIAFERRO and bring them before me at the Courtroom of the Circuit Court of Brown County, South Dakota, or in case of my absence or inability to act, before the nearest or most accessible Circuit Court Judge or Magistrate.

Bond in the above matter shall be set in the sum of \$_____.

This Warrant of Arrest may be served:

_____ At any time of the day or night
_____ Only during the daytime (8:01 A.M. to 7:59 P.M.)
_____ On Sunday and holidays

Dated this _____ day of _____, 2012, at Aberdeen, Brown County, South Dakota.

(Magistrate) (Circuit Court Judge)

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF BROWN)

RETURN

I hereby certify that a copy of the above Warrant was received by me on the _____ day
of _____, 2012. I executed the same on the _____ day of _____, 2012,
by delivering a copy to _____ at
_____.

LAW ENFORCEMENT OFFICER

STATE OF SOUTH DAKOTA)
) SS.
COUNTY OF BROWN)

IN CIRCUIT COURT

FIFTH JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA,
 Plaintiff

vs.

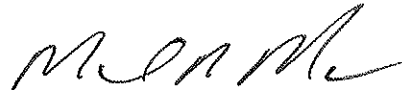
SHIRLEY ANN SCHWAB,
FRANCINE SIPPEL,
BRANDON MICHAEL TALIAFERRO,
 Defendants.

Cr.

REQUEST FOR WARRANT

I, Michael R. Moore, Prosecuting Attorney in the above entitled matter do hereby request a Warrant to be issued against the above Defendants.

Dated this 23rd day of April, 2012.



Michael R. Moore
Beadle County State's Attorney

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF BROWN)

IN CIRCUIT COURT

FIFTH JUDICIAL CIRCUIT

<p>STATE OF SOUTH DAKOTA, vs. SHIRLEY ANN SCHWAB, FRANCINE SIPPEL, BRANDON MICHAEL TALIAFERRO, Defendants.</p> <p>Plaintiff</p>	<p>Cr.</p> <p>INDICTMENT FOR:</p> <p>COUNT I WITNESS TAMPERING</p> <p>COUNT II WITNESS TAMPERING</p> <p>COUNT III SUBORNATION OF PERJURY</p>
---	---

THE BROWN COUNTY GRAND JURY CHARGES:

COUNT I

That on or about April 1, 2011 to April 30, 2011, the County of Brown, State of South Dakota, SHIRLEY ANN SCHWAB did commit the public offense of WITNESS TAMPERING (SDCL 22-11-19(2)) in that she did injure, or threaten to injure, any person or property to withhold any testimony, information, document or thing.

COUNT II

That on or about November 1, 2010 to November 30, 2011, in the County of Brown, State of South Dakota, SHIRLEY ANN SCHWAB, FRANCINE SIPPEL, and BRANDON MICHAEL TALIAFERRO did commit the public offense of WITNESS TAMPERING (SDCL 22-11-19(1)) in that they did with intent to influence a witness, offers, confers, or agrees to confer any benefit on a witness or prospective witness in an official proceeding to induce the witness to testify falsely.

COUNT III

That on or about March 10, 2010 to November 30, 2011, in the County of Brown, State of South Dakota, SHIRLEY ANN SCHWAB, FRANCINE SIPPEL, and BRANDON MICHAEL TALIAFERRO did commit the public offense of SUBORNATION OF PERJURY (SDCL 22-29-6) in that they did intentionally procure another person to commit any perjury.

SDCL 22-29-5 (2)

contrary to statute in such case made and provide against the peace and dignity of the State of South Dakota.

Dated this 20 day of April, 2012, at Huron, Beadle County, South Dakota.

"A True Bill"
"A TRUE BILL"

THIS INDICTMENT IS MADE WITH THE CONCURRENCE OF AT LEAST SIX GRAND JURORS


GRANDJURYFOREPERSON

WITNESSES WHO TESTIFIED BEFORE THE GRAND JURY IN REGARD TO THIS INDICTMENT:

Mark Black
Jennifer Treichel
Kari Bartling

1 STATE OF SOUTH DAKOTA) IN CIRCUIT COURT
 :SS
 2 COUNTY OF BROWN) FIFTH JUDICIAL CIRCUIT
 * * * * * * * * * * * * * * * *
 3 STATE OF SOUTH DAKOTA,)
) CR 12-427
 4 Plaintiff,)
) **COURT'S RULING**
 5 vs.) **(Partial Transcript)**
)
 6)
) **ROUGH DRAFT**
 7 SHIRLEY ANN SCHWAB,)
 BRANDON MICHAEL TALIAFERRO,)
)
 8 Defendants.)
)
 9 * * * * * * * * * * * * * * * *

10 DATE & TIME: January 10, 2013
 9:00 a.m.
 11

12 BEFORE: THE HONORABLE GENE PAUL KEAN
 13 CIRCUIT COURT JUDGE
 Sioux Falls, SD

14 LOCATION: BROWN COUNTY CIRCUIT COURTROOM
 15 BROWN COUNTY COURTHOUSE
 16 Aberdeen, South Dakota

17 APPEARANCES: For the Plaintiff:
 18 Mr. Michael R. Moore
 19 Beadle County State's Attorney
 PO Box 116
 20 Huron, SD 57350
 21
 22
 23
 24
 25

1 APPEARANCES CONT.: For Defendant Taliaferro:

2 Mr. Michael J. Butler
3 Attorney at Law
4 100 S. Spring Ave. #210
5 Sioux Falls, SD 57104

6 For Defendant Schwab:

7 Ms. Stephanie R. Amiotte
8 Attorney at Law
9 AMIOTTE LAW PC
 5708 S. Remington Place, Ste 200
 Sioux Falls, SD 57108

1 (Whereupon, prior proceedings were held.)

2 THE COURT: I should inform Counsel that because of what I
3 intend to do this morning, the jury is coming into the courtroom
4 at this time.

5 (Whereupon, the following proceedings were held in
6 the presence of the jury.)

7 THE COURT: I've had the jury come into the courtroom to
8 make some rulings and save me from having to do it twice. For
9 the members of the jury and for the State and for the Defendants,
10 at the close of the State's case yesterday, without the jury
11 present, there was a motion made by the State to dismiss Counts
12 Seven and Eight, and those were dismissed and I accepted the
13 dismissal on the record.

14 So Count Seven and Eight have been dismissed. Count
15 Seven, a claim that Shirley Ann Schwab committed the crime of
16 false reporting, and Count Eight is that Brandon Taliaferro
17 committed the crime of obstruction of a law enforcement officer.
18 So that -- those two counts are done.

19 Then the Defense made motions to dismiss the
20 Indictment -- or dismiss the counts in the Indictment, and that
21 leaves three perjury charges for the Court to consider. There is
22 also a charge of -- against Shirley Schwab of witness tampering,
23 one against both Defendants of witness tampering, and one against
24 both Defendants for unauthorized disclosure of information.

25 And I'm telling everybody this morning as to what I'm

1 going to be doing on those motions. And this is what's called a
2 motion for judgment of acquittal. And what the motion is based
3 on is the concept that the testimony that's been presented, the
4 evidence that's presented, is so lacking that as a matter of law
5 the case should be dismissed at this time.

6 It's a little rare that this motion be granted; highly
7 unique. I can tell you that, I believe, in the 30 years I've
8 been doing judicial work I've done it twice. This morning would
9 be the third time.

10 And I want to give you my reasoning and analysis for
11 why I'm doing this, and I want you members of the jury to
12 understand this, and this is my record that I'm making on my
13 point so you have an understanding as to where I'm coming from.

14 And I had to the start with a point, and my
15 consideration was that we can get bogged down in a lot of side
16 issues in this case. We can get bogged down in what I'll call
17 office politics at the Brown County State's Attorney. We can get
18 bogged down in Agent Black's substandard performance
19 investigating the case. We can get bogged down in maybe some
20 disputes going on between the Department of Social Services and
21 the CASA organization.

22 And there's been a lot of testimony that we can -- that
23 can get us lost on what I'll call alleys or with red herrings and
24 places we shouldn't be going and analyzing, because this case
25 really comes down to counts of perjury that claim that there was

1 benefits conferred on the children and some other things.

2 And I'm going to go through these cases -- or these
3 charges as a group and then give you my reasoning for this as to
4 why I'm dismissing the six counts against these two defendants.

5 On the perjury -- and these are factual determinations.
6 I'm making my decision based on the facts. The rest are legal
7 points I'm going to raise. I wouldn't fully expect the jury to
8 understand all of the legal issues, but I'll try to explain those
9 as well as I can.

10 On the perjury counts -- and they're all related,
11 they're all strung together -- there is a claim that they're all
12 related to Fran Sippel who didn't testify. And the State had to
13 show that the Defendants procured or solicited Fran Sippel to
14 intentionally and falsely testify to material information.

15 This is the same thing that runs through Counts One,
16 Two and Three. Each count is different. One has to do with
17 Richard giving oral sex to -- or getting oral sex from [REDACTED]
18 when Wendy walks in. The same situation on a single time when
19 Wendy walked in when Richard was raping [REDACTED]. And the issue
20 concerning the birth control pills.

21 We do know that -- from the testimony -- that
22 Fran Sippel was charged and then the Indictment was dismissed,
23 which tells me quite strongly that the State must have believed
24 that she didn't testify falsely. She could have been called to
25 testify about what happened. The State made a decision not to.

1 They made a decision not to call [REDACTED]. They're relying upon a
2 lot of records that were produced.

3 The one thing that has never been disputed in this
4 case, and Agent Black testified to this, no matter what you think
5 about his testimony -- and everybody else who has testified who
6 was asked this question -- is that Fran Sippel testified, and
7 when she testified the State had to show that she testified
8 falsely before the grand jury.

9 And I know there is some emails that go back and
10 forth -- not emails, but reports from agencies that go back and
11 forth of Child's Voice, and there is another one. But they had
12 to show that she testified falsely, meaning one of two things:
13 Either she knew she did or somebody got her to testify falsely.

14 Well, they can't call the Defendants. They have a
15 right to remain silent, not testify. So they had to call
16 somebody, in my opinion, to testify about what was false, and
17 this never occurred in this case.

18 There is something else, too, that occurred, and I
19 think it's a lack of evidence in this case, and I'm not sure --
20 maybe Counsel were so, I guess, dug into your presentation and
21 your defense of the case, but I cannot recall -- this is a very
22 key component of perjury, is you have to testify falsely. But
23 not only that, you have to be under oath or affirmation.

24 I've never heard any witness testify, and I received no
25 documents, that indicated that Fran Sippel had testified under

1 oath. I know there was an offer made on an exhibit, which was
2 refused. Some pages of that exhibit were received, but I can't
3 recall anybody testifying that she was placed under oath or
4 affirmation during this proceeding.

5 That may have occurred and it may have come up in
6 another proceeding, Counsel, but I didn't hear it at trial and
7 that's why we're here. And you may believe that it is in. It's
8 a refused exhibit, but a refused exhibit is not an exhibit you
9 can use for testimony. And so I think that is an important
10 factor, too, as to why I think Counts One, Two and Three should
11 be dismissed.

12 We get to Count Four on the -- this is the claim that
13 Jennifer Treichel was somehow threatened by Shirley Schwab about
14 her licensing with DSS. I think, at best, it's an empty threat.
15 I just don't think there is any substance to it.

16 I've analyzed it and compared it to what I think the
17 correct statute is, and I don't believe there has been a
18 violation of the statute charged based on the facts that I've
19 heard in this case and the matter should not go to the jury. And
20 that goes as to Count Four.

21 As to Count Five, this was the claim that there were
22 benefits conferred on the Mette children, and there are three
23 categories here that these gifts were called, and other times
24 they would have said they were bribes, but they have called them
25 benefits now.

1 The testimony concerning Shirley Schwab was that, at
2 least in part, was she got some gift cards from Northern State
3 University student counsel or some organization on campus that
4 she distributed to the children. That's really suspect in my
5 mind. I don't think that's what the statute is intending to
6 drive home when it says you shouldn't confer benefits on
7 somebody.

8 In addition to that, the Indictment charges a time
9 frame from November 1 through November 30 of the year in which
10 it's charged; it's the year 2012 -- or '11, I believe. Whatever
11 Ms. Schwab did is not in that time frame. The testimony
12 concerning her was that it occurred at the end of December. This
13 was the Christmas situation.

14 Now an Indictment doesn't have to be precise. You can
15 say on or about a certain time. But the State missed it by 30
16 days. And the State has been back to the grand jury three times
17 on these Indictments, and every time it came back November 1
18 through November 30, so I think that's a little fatal there, too.
19 They haven't charged the correct time frame.

20 But, frankly, I don't think what Defendant Schwab gave
21 to these children falls within that category. I mean, she was
22 the appointed CASA worker, and I don't believe there is any --
23 any violation of the law.

24 Concerning what the Defendant Taliaferro gave to the
25 children, a body scrubber -- or foot scrubber, I guess it was, a

1 candy bar, a bottle of water; I mean, that just doesn't fall in
2 the gamut within the parameters of what the statute's about.

3 More importantly than that, even if the gifts are
4 benefits, we also have this lack of evidence, as I never heard
5 what these children testified or were asked to testify falsely
6 about. We assume the proceeding was the A&N proceeding. I never
7 heard any testimony that this was suppose to be what they were
8 testifying about.

9 Again, they could have called somebody forward like the
10 children. I don't like children witnesses to have to come into
11 court, but if you have to prove your case, then you need to call
12 them into court and they can be treated properly and
13 appropriately in their examination by the State. That didn't
14 happen in this case, so I think actually there is also a
15 deficiency on that charge, too.

16 The unauthorized disclosures, that's the sixth and last
17 count. You can believe that the Defendant Schwab was
18 over-the-top, a little zealous, maybe a nuisance, a pest in this
19 case, whatever you want to say about it. I guess it depends upon
20 what your point of view might be. Somebody obviously thought she
21 was being a little bit of a gadfly.

22 But, you know, she was appointed by the Court as a CASA
23 volunteer, and that's authorized by statute. It's specifically
24 set forth in one of the South Dakota code sections and it's
25 authorized by the Court, and it happens in virtually every abuse

1 and neglect situation where the children get an extra advocate in
2 court, and that's the role that Shirley Schwab played.

3 Now whether she executed that role properly isn't what
4 this case is about. You can't charge somebody because you
5 disagree with her policy or how she was executing the office and
6 how she was functioning in the case. That's not a criminal
7 matter.

8 And after Mr. Taliaferro was fired she wanted to hire
9 him. I also believe -- you know, Mr. Moore, you can take this
10 and discuss it at the next prosecutor's conference, but I really
11 have some concern with how the State charged this case. And I
12 know this is some new thinking.

13 When somebody's an officer of the Court and they're
14 representing the children's best interests by statute, I really
15 think it's encroaching into the judicial branch by the executive
16 branch of government to come in and charge somebody when they are
17 executing the child's best interests, and there's nothing to show
18 it wasn't in the children's best interest. That's the burden the
19 State has to overcome.

20 And I think when you encroach in a judicial function
21 and you're saying that somebody's doing something when you're
22 ordered by the Court to help the Court -- and you're not helping
23 the Department of Social Services if you're a CASA member.
24 You're not helping the State, you're helping the Court for the
25 benefit of the children.

1 And if the executive branch wants to come into the
2 judicial branch, I think the executive branch has to tread very
3 lightly, because we're a separate branch of government and I
4 think we have to protect our branch of government as much as the
5 executive branch likes to protect its branch of government.

6 Not criticizing because this is probably new, but just
7 some of my thinking as to why I don't believe that Shirley Schwab
8 factually committed a crime in this case.

9 As far as the Defendant Taliaferro, I mean, he's got a
10 couple documents in his office. This is a crime of unauthorized
11 disclosure. If he's got them, he didn't disclose. I don't know
12 how he can be blamed or, you know, anybody can say you committed
13 a crime.

14 So on Counts One through Six that have not been
15 voluntarily dismissed by the State, members of the jury, I don't
16 believe there is enough facts to present that case to you and
17 that's what my reasoning is this morning. And so I am dismissing
18 Counts One through Six.

19 And I'm not totally done, because there's still
20 something over on the table here that you may not be aware of
21 that I have talked to the attorneys about but -- you know, I want
22 to go back to one point on one of the earlier charges.

23 Like I said, I hate to get bogged down on side issues,
24 but I thought it was interesting that Shirley Schwab was charged
25 with conferring benefits; Brandon Taliaferro was charged with

1 conferring benefits; Ms. Bartling wasn't, and she's the one that
2 bought the Easter dresses and the dresses so the kids could go to
3 court. I'm just -- just one of things that makes you stop and
4 ask, you know, why?

5 Anyway, I guess the final thoughts I have -- you know
6 this is really -- the backdrop, the panorama behind this case is
7 really pretty sad, really horrific. You've got Richard where he
8 belongs, maybe not long enough from what you've heard today but
9 we don't have to deal with that matter. The sentencing on him is
10 done.

11 I just think it's time, from what I've heard, that this
12 matter be closed out, be done. I don't think there is enough
13 facts to continue charges against these two Defendants.

14 And I do have to talk with the attorneys about a couple
15 matters here, but I'm going to dismiss you from this proceeding,
16 members of the jury. I want to thank you for coming in. I'm not
17 going to give you any admonitions. Whether you want to talk to
18 somebody is up to you from now on. That's your choice as far as
19 talking to anybody.

20 You can go back and read all those newspapers, you can
21 see if what the newspaper man wrote coincides with what you
22 heard, but... Did he show up? He's in the back row. You must
23 think this is church.

24 Anyway, I do want to thank you on behalf of the
25 citizens of Brown County. You came in, you sat three and a half

1 days with me. I know it's been tough to sit and listen to some
2 of this testimony that came out.

3 Like I said, if you just focus on what the crimes were
4 that were charged, you sort of wade through this background and
5 the side issues, I just think factually there is nothing to
6 proceed on and so I'm going to -- as I said, I'm dismissing the
7 cases.

8 You're free to leave. There is no admonitions any more
9 and I want to thank you for your service in this case. So you're
10 free to leave at this time. Thank you for coming back.

11 (Whereupon, the jury was dismissed.)

12 (Whereupon, an off-the-record discussion was
13 held.)

14 THE COURT: Whether I got the correct Christmas or not
15 doesn't make any difference, Mr. Moore. I think it's not the
16 type of activity that's covered. Factually I just don't think
17 it's there. So I made my ruling.

18 MR. MOORE: I don't disagree with that. I just think you
19 chastised me for having an inaccurate Indictment, and I don't
20 think that's correct.

21 THE COURT: Okay. Well, if you think so, I apologize. But
22 I just don't think factually, no matter what the time frame is,
23 it's the type of conduct that, you know, is conferring a benefit.
24 So, Mr. Moore, I know you're leaving for something next week, but
25 I do need a decision on the conspiracy charge sometime within 30

1 days.

2 MR. MOORE: State will move to dismiss the conspiracy
3 charge, Your Honor.

4 THE COURT: All right. All the charges then are dismissed.
5 Any impediments by fact of bail or bond are hereby exonerated.
6 Any impediment the Defendants may be under are hereby released in
7 all regards. I think the defense should prepare the dismissals
8 and present those to me and within due course. And with that,
9 then, we'll be adjourned.

10 MR. MOORE: I do have one question, Your Honor.

11 THE COURT: Yes.

12 MR. MOORE: The evidence that was put in trial contains
13 medical records, counseling notes, other statements that I think
14 are a sensitive nature, especially to the alleged victim [REDACTED]
15 and the other girls.

16 I would ask that the Court enter an order sealing
17 those, and that if there is any request for them that the Court
18 review those, or somebody review them, to see if it's an
19 appropriate question, just to protect the privacy of the girls
20 involved in this case.

21 THE COURT: I prefer just to take all the exhibits and shred
22 them.

23 MR. MOORE: I have no objection to that.

24 THE COURT: Or return them to counsel. They're really, you
25 know, divided up here very succinctly. You have 1 through 199,

1 you have 200 through 299 as to Defendant Schwab.
2 Defendant Taliaferro has 300 and up. You can just have them all
3 back if you want them back.

4 MR. MOORE: I could take them all and destroy them all. Or
5 we could give each everybody their own, or what do you want to
6 do?

7 MR. BUTLER: We can speak about it after.

8 THE COURT: I just as soon get that on the record.

9 MR. BUTLER: With regard to the exhibits introduced by
10 Defendant Taliaferro, we'd ask those be returned.

11 THE COURT: All right. So you get the 300s.

12 MS. AMIOTTE: We'd also ask for ours back, Your Honor.

13 THE COURT: All right. And I know that you -- the
14 Defendant Schwab has one that was offered in part. It was taken
15 out, so I got to make sure I got the right numbers. I want to do
16 this on the record. I want to return the exhibits, because I
17 think everybody understands what that will do, is there will
18 absolutely -- when I return those you're going to get all the
19 evidence back, and that's pretty much it. So, Mr. Moore, do you
20 want to come up and pick up your exhibits then?

21 MR. MOORE: Yes, Your Honor.

22 THE COURT: Ms. Amiotte? While the jury isn't here and
23 while I've got many people in the -- I prosecuted cases for a
24 long time in Sioux Falls, and prosecution is tough work, okay.
25 And I'll just let it go at that. Sometimes you get cases that --

1 you just get them and you have to do something with them.

2 So, anyway, Ms. Amiotte, you want to come up and get
3 your file? Mr. Butler? The record should reflect that Mr. Moore
4 has got his file back. Ms. Amiotte, you have yours, even a
5 couple that were refused. And, Mr. Butler, you've received your
6 exhibits back, and so there will be no records retained.

7 And I'll need a statement -- I'll need judgments of
8 acquittal from the Defense. And I'd like to get those prepared
9 forthwith, and send a copy over to Mr. Moore. I think he's
10 leaving next Thursday; is that right?

11 MR. MOORE: Yes, Your Honor.

12 THE COURT: Okay.

13 MR. BUTLER: Mr. Moore, were you going to do the dismissal
14 with regard to the conspiracy count then?

15 MR. MOORE: I will.

16 THE COURT: All right. The other thing I wanted to say is I
17 know I've had an audience in court for the whole week and I want
18 to thank you for your behavior. I didn't have any problems, and
19 I know some feelings ran in this case pretty hard and I want to
20 thank you.

21 I think this is a rather civilized way we handle this.
22 There is a lot of countries -- if you go to Syria, look at the
23 Middle East, look at Central America. I mean, there is a lot of
24 countries in this world that don't handle their cases like this,
25 even in the courtroom, they handle it in other ways.

1 And so, anyway, thank you for your courtesy. It's not
2 to me. I mean, judges come and go and this is actually your
3 courtroom I just happen to be in out of retirement for a short
4 stay, and it's been a heck of a job.

5 Thank you again for your courtesy to the court system
6 and for your demeanor in court, okay. If you had a report card
7 I'd probably give you all an A. All right. Thank you very much.
8 We are adjourned.

9 And as I indicated, make sure your orders of dismissal
10 cover the area concerning the bail or bonds and any impediments
11 that may flow from there. I don't know if there are any, but if
12 there are, make sure those are done. We are adjourned. Thank
13 you.

14 (Whereupon, the proceedings were
15 adjourned at 9:26 a.m.)
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1 STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

2
3 COUNTY OF BROWN

FIFTH JUDICIAL CIRCUIT

4 STATE OF SOUTH DAKOTA,

Cr.#10-1113

5 Plaintiff,

TRANSCRIPT OF

6 v.

CHANGE OF PLEA

7 RICHARD PAUL METTE,

8 Defendant.

9
10 BEFORE: THE HONORABLE JON FLEMMER,
11 Circuit Judge, at Aberdeen,
12 South Dakota, March 26, 2012
at 9:05 A.M.

13 APPEARANCES: For the State:

14 Mr. Michael R. Moore
15 Beadle County State's Attorney
16 P.O. Box 116
Huron, South Dakota

17 For the Defendant:

18 Mr. William Gerdes
19 Attorney at Law
P.O. Box 1239
Aberdeen, South Dakota

20 Ms. Gina J. Rogers
21 Court-appointed Attorney
22 404 S. Lincoln St. #2
23 Aberdeen, South Dakota
24
25

COPY

1 THE COURT: The record should reflect that this
2 is the time that's been set for trial in the matter of
3 the State of South Dakota v. Richard Paul Mette in
4 connection with Brown County criminal file Cr.
5 10-1113. And the Court's been notified late last
6 night-- I guess I got the message early this morning,
7 that a plea agreement had been arrived at. The record
8 should reflect at this time that the Defendant is
9 personally present at this time together with
10 Court-appointed attorney, Gina Rogers, and retained
11 counsel, William Gerdes. The State is represented at
12 this time by Special Prosecutor Michael Moore. That
13 we're outside the presence of the jury panel at this
14 time in the west-- third floor west courtroom for
15 purposes then of taking this plea. I guess, Mr.
16 Gerdes, you had sent the e-mail to the Court about the
17 plea. If you want to provide that information for the
18 record.

19 MR. GERDES: Thank you, Your Honor. In exchange
20 for the remaining counts being dismissed and with an
21 agreement that the Defendant will receive a 15 year
22 sentence, the Defendant has agreed to enter a guilty
23 plea to Count III of the indictment.

24 THE COURT: And is that the State's
25 understanding of the agreement?

1 MS. MOORE: That's correct, Your Honor.

2 THE COURT: And, Mr. Mette, is that your
3 understanding of the agreement?

4 MR. METTE: Yes.

5 THE COURT: And before we go any further, since
6 we did change courtrooms, I don't know if the State or
7 the Defense had any family members or witnesses or
8 anyone who wanted to be present for this plea that's
9 not in this courtroom --

10 MR. METTE: No.

11 THE COURT: --that's still in the other
12 courtroom?

13 MR. GERDES: No.

14 MS. MOORE: State has none, Your Honor.

15 THE COURT: And I note that Mr. Walton is here,
16 I don't know if there are any other media present for
17 jury selection or not but, in any event, then, Mr.
18 Mette, you have previously been before this Court and
19 entered a plea of not guilty to what is Count III of
20 the amended third superseding indictment, a charge of
21 First Degree Rape. And it's been some time since we
22 conducted that hearing so I am going to review with
23 you the rights and allegations contained in that
24 count. Obviously, you've exercised your right to
25 counsel and you had had an application for

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20 the amended third superseding indictment, a charge of
21 First Degree Rape. And it's been some time since we
22 conducted that hearing so I am going to review with
23 you the rights and allegations contained in that
24 count. Obviously, you've exercised your right to
25 counsel and you had had an application for

1 Court-appointed counsel and Miss Rogers was appointed
2 and thereafter Mr. Gerdes was also retained. Have you
3 had enough time to consult with your attorneys before
4 today's proceeding?

5 MR. METTE: Yes.

6 THE COURT: And are you satisfied with their
7 representation at this time?

8 MR. METTE: Yes.

9 THE COURT: Now other rights that you would
10 have would include the right to remain silent meaning
11 that you don't have to make any statement to the
12 police or the sheriff or any other law enforcement
13 officer. I would remind you that anything you do say
14 voluntarily could be used against you in connection
15 with this or some other proceeding here in court. You
16 also have the constitutional right to a speedy, public
17 trial before an impartial jury selected from this
18 county and at this trial the State would have the
19 burden of proving guilt beyond reasonable doubt. You
20 do not have to prove yourself innocent. You also have
21 a constitutional right to confront, that is, to see,
22 hear, question and cross-examine all of the witnesses
23 that would testify against you at the time of trial
24 but you do not have to testify and you cannot be
25 forced to testify against yourself. You do have a

1 constitutional right to summon and compel witnesses to
2 be present to testify on your behalf. You are presumed
3 to be innocent unless and until the State could prove
4 guilt beyond reasonable doubt. In addition to these
5 rights, you do have the right to have a reasonable
6 bond set and to be at liberty once that bond is posted
7 while the case is pending. Do you understand these
8 rights?

9 MR. METTE: I do.

10 THE COURT: The State had previously read to
11 you Count III of the third superseding-- excuse me,
12 the amended third superseding indictment on the charge
13 of First Degree Rape. And if you persisted in your
14 plea of not guilty on that charge then the State would
15 have to prove beyond reasonable doubt that on or about
16 the 25th day of February of 2004 and the 25th day of
17 February of 2005 in Brown County you did commit the
18 public offense of First Degree Rape in that you did
19 commit an act of sexual penetration with K.M., date of
20 birth 2/25/1995, while K.M. was less than ten years of
21 age. Do you understand that's what the State would
22 have to prove before you could be found guilty of that
23 offense?

24 MR. METTE: I do.

25 THE COURT: And the possible pleas that could

1 be entered on that charge are either guilty or not
2 guilty. If you -- if you continue with your plea of
3 not guilty then the burden is on the State to prove
4 that charge beyond reasonable doubt at trial. If you
5 were to enter a plea of guilty at this time then you
6 would be waiving your rights. You would be waiving
7 your right against-- excuse me, your right to remain
8 silent meaning that you could be asked questions about
9 this offense here in court and if you answered those
10 questions on the record, under oath and in the
11 presence of your attorney and gave false information,
12 you could be also charged with perjury. If you entered
13 a plea of guilty you would be giving up your right to
14 confront and cross-examine witnesses that could
15 testify against you. You'd also be giving up your
16 right to call witnesses into court to testify on your
17 behalf and you would be waiving your presumption of
18 innocence, as well as other rights. Do you understand
19 that if you entered a plea of guilty at this time you
20 would be giving up those rights?

21 MR. METTE: Yes.

22 THE COURT: And if you continue with your plea
23 of not guilty then you would still have all of the
24 rights that I had previously explained to you
25 including your right to have a trial by jury, your

1 right to confront witnesses and your right to call
2 witnesses into court to testify on your behalf. Do you
3 understand that?

4 MR. METTE: Yes.

5 THE COURT: Now the charge of First Degree Rape
6 is a Class 1 felony. That means that the maximum
7 possible penalty on that offense would be life in the
8 state penitentiary. Do you understand that maximum
9 possible penalty?

10 MR. METTE: Yes.

11 THE COURT: And if you -- the possible pleas
12 are either guilty or not guilty. As I said, if you
13 continue to -- with your plea of not guilty you would
14 be contesting the charge or denying the charge. The
15 State would then have to prove the charge beyond
16 reasonable doubt at trial. If you entered a plea of
17 guilty you would be admitting the offense. All that
18 would then remain would be for the Court to determine
19 the sentence. Do you understand those possible pleas?

20 MR. METTE: Yes.

21 THE COURT: And you're not required to enter
22 any plea or to change your plea at this time. If you
23 wish, a delay of at least 48 hours would be granted
24 before any further plea would be required. Did you
25 wish to have any delay at this time?

1 MR. METTE: No.

2 THE COURT: You're prepared to proceed at this
3 time?

4 MR. METTE: Yes.

5 THE COURT: Do you understand the rights and
6 procedures that I've covered with you here this
7 morning?

8 MR. METTE: I do.

9 THE COURT: Do you have any question about
10 those rights or procedures or the charge contained in
11 -- against in you Count III of this document?

12 MR. METTE: No.

13 THE COURT: As far as the -- other than the
14 plea agreement that's been explained here in court,
15 has anybody made a threat to you or a promise to you
16 to get you to enter a plea on the charge?

17 MR. METTE: No.

18 THE COURT: So any plea that you enter would be
19 a voluntary plea made of your own free will?

20 MR. METTE: Yes.

21 THE COURT: And as far as that plea agreement,
22 as I understand it the agreement is that in exchange
23 for your plea of guilty to Count III, the charge of --
24 a charge of First Degree Rape, the State would dismiss
25 all other pending charges and the parties have agreed

1 that you will receive a 15 year sentence to the state
2 penitentiary. Is that the extent of the agreement?

3 MR. METTE: Yes.

4 THE COURT: And I want to make certain that you
5 understand that that is an agreement between you, your
6 attorneys and the State's Attorney, it doesn't
7 obligate the Court to impose that sentence or bind the
8 Court to impose that sentence. If the Court felt that
9 the -- the sentence was not appropriate, the Court
10 could reject the plea agreement and impose any
11 sentence the Court felt was appropriate up to the
12 legal maximum. But if the Court rejected the agreement
13 after you had entered a plea of guilty pursuant to the
14 agreement, you would have an opportunity to withdraw
15 your plea before any sentencing took place. Do you
16 understand that?

17 MR. METTE: Yes.

18 THE COURT: Have you been mistreated in any way
19 since you were initially arrested on these charges?

20 MR. METTE: No.

21 THE COURT: Do you have any objection to any of
22 the legal proceedings to this point?

23 MR. METTE: No.

24 THE COURT: Are you satisfied with the
25 representation that Ms. Rogers and Mr. Gerdes have

1 provided to you?

2 MR. METTE: I am.

3 THE COURT: Is it your desire at this time to
4 change your plea as to Count III?

5 MR. METTE: No. Or, I mean, yes. Sorry.

6 THE COURT: Okay. And what plea did you wish to
7 enter as to Count III at this time?

8 MR. METTE: Guilty.

9 THE COURT: And you understand that by entering
10 that plea then there would no longer be-- pursuant to
11 the agreement, there would no longer be a jury trial
12 held starting today?

13 MR. METTE: I understand that.

14 THE COURT: Is there a factual basis that the
15 State can provide?

16 MS. MOORE: Yes, Your Honor. The victim, whose
17 date of birth is February 25, 1995, was adopted by the
18 Defendant in 2000, along with her brother, [REDACTED].
19 When she became eight years old in 2003 the Defendant
20 began touching her in a sexual way on numerous
21 occasions which ultimately led [REDACTED] performing oral
22 sex on the Defendant on numerous occasions while she
23 was eight and nine years old. It happened in the
24 family home here in Brown County in the basement, in
25 the upstairs family room, bathroom, in her parents'

1 room. As I stated, it happened numerous times between
2 the years 2003 and 2008. It was reported to law
3 enforcement in October of 2010. An investigation
4 ensued. It revealed by [REDACTED] being interviewed at
5 Child's Voice in Sioux Falls the extent of the sexual
6 abuse and contact that the Defendant had had with her.
7 A search warrant was done at the house which found a
8 large amount of pornography, specifically a large
9 amount of pornography in the Defendant's bedroom
10 dealing with incest. And I believe that's sufficient
11 for a factual basis.

12 THE COURT: Do you have any disagreement with
13 that information?

14 MR. METTE: No, I guess.

15 MR. GERDES: Your Honor, the Defendant accepts
16 that that would be the State's evidence at trial. On
17 the charge that he's -- has entered a guilty plea to.
18 That would be for actions in 2004 and 2005. And there
19 was a change in the statute effective, I believe it
20 was July of 2005. So this charge in the indictment
21 follows the statute then in effect.

22 THE COURT: And the Court would find then that
23 based upon this factual information that there is a
24 factual basis to support the plea of guilty that's
25 been entered as to Count III of the amended third

1 superseding indictment. And the Court, therefore,
2 would find the Defendant guilty of the offense of
3 First Degree Rape. Because this matter is a felony,
4 you do have the right to have conducted what's called
5 a pre-sentence investigation. That's where the Court
6 would appoint a Court Services Officer that would meet
7 with you, with family and friends that you may
8 designate and with other individuals, the victim and
9 others, to gather information about you. If you wanted
10 to have a pre-sentence investigation this matter would
11 be continued so that that process could be completed.
12 If you waive that right then the Court would go ahead
13 with sentencing at the time scheduled for sentencing
14 with whatever information is available. Because of the
15 nature of this offense, it is necessary that a
16 psychosexual report be completed which would be in
17 addition to the pre-sentence investigation. But do you
18 understand what would be involved in a pre-sentence
19 investigation?

20 MR. METTE: I do.

21 THE COURT: Do you want to have a pre-sentence
22 investigation conducted?

23 MR. METTE: I do not.

24 THE COURT: And there has been some discussion
25 about Dr. Matt Strichertz conducting the psychosexual

1 evaluation.

2 MR. GERDES: I can contact Dr. Stricherz, he
3 has done some work on this case and I'll see if he
4 views it as a conflict and I will also see if the work
5 he has done can be utilized for purposes of the
6 psychosexual.

7 THE COURT: Is that satisfactory with the
8 State?

9 MS. MOORE: Yes, Your Honor.

10 THE COURT: What the Court would do at this
11 time then would be to revoke the Defendant's bond and
12 remand him to the custody of the Sheriff pending
13 sentencing and the Court would direct then that the
14 Court -- Dr. Stricherz be contacted concerning the
15 psychosexual evaluation. Obviously, if he deems it a
16 conflict to proceed then we'll need to examine some
17 other options for that procedure. And sentencing can
18 then be scheduled once the psychosexual has been
19 completed. Did the Defense have anything further at
20 this point?

21 MR. GERDES: No.

22 THE COURT: Anything further from the State?

23 MS. MOORE: No.

24 MR. BRUMBAUGH: The victim has a right to have
25 input in sentencing. With your permission, can I send

1 letters out for a Victim's Impact Statement to the
2 victims in this case?

3 THE COURT: I believe Mr. Moore has had some
4 contact. You can certainly send those letters out. You
5 may want to consult with him to find out who or where
6 they should be sent to since the victims -- the victim
7 does have counsel appointed through the A & N action
8 and but, yes, they certainly have the opportunity to
9 comment as part of the sentencing.

10 MR. BRUMBAUGH: Thank you.

11 THE COURT: Anything further?

12 MR. GERDES: No.

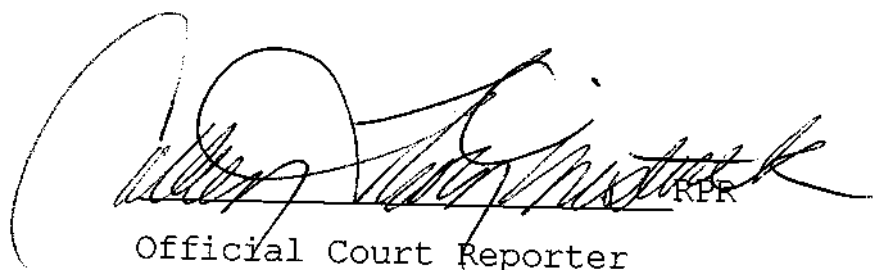
13 THE COURT: We'll be in recess then at this
14 time.

15 (End of proceedings.)
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1 STATE OF SOUTH DAKOTA)
2 COUNTY OF ROBERTS) SS CERTIFICATE

3 I, Calleen Thorn Misterek, am an Official
4 Court Reporter within and for the Fifth Judicial
5 Circuit of the State of South Dakota and I do hereby
6 certify that I acted as such reporter for this hearing
7 and that the preceding 15 pages constitute a full,
8 true and correct transcript of all of the proceedings
9 held thereon.

10 Dated at Sisseton, South Dakota, this 26th day
11 of September, 2012.

12
13
14 
15 Official Court Reporter

1 STATE OF SOUTH DAKOTA) IN CIRCUIT COURT
2) :SS
3 COUNTY OF BROWN) FIFTH JUDICIAL CIRCUIT
4 * * * * *)
5 STATE OF SOUTH DAKOTA,)
6) CR 11-274
7 Plaintiff,)
8) BOND HEARING
9 vs.)
10)
11 WENDY METTE,)
12)
13 Defendant.)
14)
15 * * * * *)
16)
17 DATE & TIME: April 4 , 2011
18 1:30 p.m.
19)
20 BEFORE: THE HONORABLE JACK R. VON WALD
21 PRESIDING CIRCUIT COURT JUDGE
22 Brown County Courthouse
23 Aberdeen, South Dakota, 57401
24)
25 LOCATION: BROWN COUNTY CIRCUIT COURTROOM
BROWN COUNTY COURTHOUSE
Aberdeen, South Dakota
APPEARANCES: For the Plaintiff:
Ms. Kimberly A. Dorsett
Mr. Brandon Taliaferro
Brown County State's Attorney's Office
22 Court Street
Aberdeen, SD 57401
For the Defendant:
Mr. Gregory C. Magera
SIEGEL, BARNETT & SCHUTZ
Attorneys at Law
PO Box 490
Aberdeen, SD 57402
Christy Serr
Attorney at Law
202 S Main #600
Aberdeen SD 57401



1 think she is certainly eligible and should be released on a PR
2 bond. As was mentioned, she's very involved in the children's
3 life. She's involved in their church. She is no risk, really,
4 Your Honor.

5 It boils down to two questions: One, is the defendant
6 a risk to flee, and secondly, is the person a danger or risk to
7 anyone in the community. And I think the answer to both those
8 questions have been answered solidly this afternoon. No, she's
9 not a danger to any person in the community, and secondly, she's
10 not a risk to flee and will be present when she's directed to do
11 so by the Court.

12 She is a well-respected employee of a very well-known
13 and well-respected law firm in this community. She's a diligent
14 employee, and frankly, I don't see where she would have resources
15 to go anywhere. She should be at her liberty and we ask that you
16 modify the bond to a personal recognizance.

17 THE COURT: Response from the State?

18 MS. DORSETT: Your Honor, the State would draw this Court's
19 attention again to the fact that bond has been set and the State
20 would advocate this is reasonable bond.

21 The Court set \$150,000 cash or surety, which means she
22 has the option of only posting 10 percent. This is also a
23 defendant who has been on work release, has been able to go to
24 work, do other personal errands that she needs to take care of.
25 And again, this Court has already set reasonable bond.

1 Personal recognizance, the State would advocate, is
2 extremely inappropriate in this case. This is a defendant who
3 has 11 counts of a combination of class three and class four
4 felonies. So this is a defendant who is potentially facing 115
5 years in prison, which is effectively a life sentence. So she
6 obviously has the potential to flee in order to avoid that
7 potential incarceration or avoid that particular sentence.

X 8 We would maintain she is a danger to the community by
9 the very nature of the allegations involved. These are children
10 who have disclosed some pretty serious, pretty significant and
11 disturbing acts of abuse, either at the hands of this defendant
12 or abuse that she was accomplice in and watching occur, which we
13 have a very respected and very experienced doctor, Dr. Pribyl
14 from Sioux Falls, indicating that some of the diagnostic
15 impressions of this defendant from a psychiatric standpoint would
16 support those allegations, meaning that she has narcissistic and
17 sadistic personality traits, which again lends some credence to
18 some of the allegations that have come out of this matter. X

19 So given the severity of the allegations in combination
20 with the fact that she already has a reasonable bond set for her,
21 we would advocate that the Court stand by its original decision.

22 MR. MAGERA: Very brief response, Your Honor. I don't --
23 I'm certainly not aware of this Court changing the rules as far
24 as an individual being allowed work release being allowed to also
25 go on personal errands. I don't believe that the Court has ever

1 Personal recognizance, the State would advocate, is
2 extremely inappropriate in this case. This is a defendant who
3 has 11 counts of a combination of class three and class four
4 felonies. So this is a defendant who is potentially facing 115
5 years in prison, which is effectively a life sentence. So she
6 obviously has the potential to flee in order to avoid that
7 potential incarceration or avoid that particular sentence.

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25 go on personal errands. I don't believe that the Court has ever

Protective Capacity: Wendy supports her children. She shows support for her children through her words and actions. Wendy listens to her children's thoughts and is supportive of their feelings. Wendy encourages her children to come to her for support and guidance regardless of what they may be enduring or facing.

**No
Progress**

**Minimal
Progress**

**Significant
Progress**

**Outcome
Achievement**

Date of outcome
achievement: _____

Justification: Wendy has not had any contact with her children since 11/24/2010 per court order. FSS has been unable to observe Wendy and her interactions with the children due to the order.

The children have reported that Wendy was aware of the sexual abuse and did nothing to prevent it. Wendy continues to associate with Rich even though he is incarcerated awaiting a trial on sexual abuse of the children. FSS has been unable to meet with Wendy per her attorney and is unaware of her feelings toward her children and Rich. However, there is concern that by her visiting Rich she is not in support of her children.

Protective Capacity: Wendy is able to meet her own emotional needs. This is evidenced by her being self fulfilled and meeting her own emotional needs. Wendy is able to work through obstacles that may come her way and has an outlet in her support system outside of her home. Wendy has appropriate ways of dealing with stress that allow her to think clearly and act in protective ways for her children.

**No
Progress**

**Minimal
Progress**

**Significant
Progress**

**Outcome
Achievement**

Date of outcome
achievement: _____

Justification: FSS has been unable to meet with Wendy per her attorney and is unsure of her progress on this protective capacity. It has been reported that Wendy is seeing a counselor Sharon Thomas, however, FSS is unaware of her attendance and progress with counseling. Wendy is not allowed visits with the children, therefore, her interactions with them have not been observed.

Protective Capacity: Wendy and her children have a strong bond and Wendy is clear that the number one priority is the well-being of her children. Wendy demonstrates this through her words and actions. Wendy acts in the best interests of her children and puts her relationship with them first. Wendy show

Family Services Specialist Daville Simons
Supervisor umetice

8-23-11
8-23-11

I agree with the content of this plan. _____ (Initial)

I disagree with all or part of the content of this plan. _____ (Initial)

Please state your reasons if you disagree:

**Section VI. Provisional Protection:
Reconfirming Safety Plan Sufficiency**

A. Ongoing Safety Management: Controlling Foreseeable Danger
(Consider the following safety analysis questions and conditions for return to determine the least intrusive and most appropriate level of effort for controlling and managing safety threats):

Is the home environment stable enough to sustain the use of an in-home safety plan:

Yes No

There are current felony child abuse charges against Wendy. Extensive child abuse occurred in the home and it is not an appropriate setting at this time for an in-home safety plan.

Are caregivers willing to be involved and cooperate with the use of an in-home safety plan:

Yes No

Wendy is currently not cooperating with CPS services per advise of her attorney.

Are safety services available and accessible at the level of effort required to assure safety in the home:

Yes No

Services are not available to provide level of support needed with serious allegations of allowing sexual abuse to occur.

Are safety service providers committed to participating in the in-home safety plan:

Yes No N/A

Does the in-home safety plan provide the proper

REPORT TO THE COURT
RE:

Maternal Uncle:

is unwilling to provide care for the children.

Sister:

is currently in college and unable to provide care.

Paternal Grandmother:

declined placement.

is unwilling to provide care for the children.

The Department of Social Services respectfully recommends the following:

1. That the Court orders the minor child, [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED] Mette, are an Abused and Neglected children as to respondent parents, Richard and Wendy Mette;
2. That the Court orders the minor children, [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED] Mette, to remain in the Department of Social Services' legal and physical custody through the pendency of the proceedings;
3. That the Court orders the Department of Social Services has made reasonable and active efforts to achieve the permanent plan of reunification of the children, [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED] Mette, with their parents, Richard and Wendy Mette, and these efforts have been unsuccessful and it would be contrary to the child's welfare to be returned home. These efforts are:
 - Initial Family Assessment
 - Protective Capacity Assessment
 - Foster Care Services
 - Medical Services
 - Transportation
 - Child Case Plan Assessment
 - Kinship placement
4. That the Court orders returning custody of the children to the parents or Indian custodian would likely result in serious emotional and/or physical damage to the minor children;
5. That the Court orders that the least restrictive alternative available in the children, [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED] Mette, best interest